

1909-041
Lee Co.

Chancery Causes: S. Melvina Wampler & vs. Alfred Slomp &
S. Melvina Wampler & vs. F. T. Riddle &
Florence Coomer & vs. Alfred Slomp &

Folder 1 of 4

Barron, Cox, Edmonds, Brummitt, Parker, Reese, Hall, Howard,
Patterson, Courr, Young, Gilmer, Gilly, Coldiron, Reason,
Ward, Clarkston, Hobbs, Pennington, Jones, Bullitt, Flanory,
Olinger, Davis, Wade, Bailey, Carter, Stout, Shuler, Lawson,
Chenoweth, Moren, Pope, Vance, Brumit, Reece

- Deed

CA. Estate Dispute

T-Property

Health/Medicine

Will: 1906: Sebastian S. Slomp: Lee County

Will: 1907: V. E. Slomp: Lee County

CIRCUIT COURT OF LEE COUNTY, VIRGINIA.

S. MELVINA WAMPLER, ET AL,

PLAINTIFFS,

v.

F. T. RIDDLE, ET AL,

DEFENDANTS.

TO THE HONORABLE H. A. W. SKEEN, JUDGE OF THE CIRCUIT COURT OF LEE COUNTY, VIRGINIA:

Your Orators, S. Melvina Wampler, Florence Coomer and T. D. Coomer, her husband, Margaret Cox and W. S. Cox, her husband, J. F. Slemp, Eurie L. Brumit and John W. Brumit, her husband, Martha Barker and J. G. Barker, her husband, L. J. Slemp, R. E. L. Slemp; and Rebecca N. Reese, Alpha N. Reese, Lou M. Reese and Alice Reese Hall, by S. M. Wampler their next friend, sheweth unto the Court that they are the heirs at law and distributees of Sebastian S. Slemp, who recently departed this life, to-wit, on the ____ day of November, 1906, having a mansion house in, and being a resident of Lee County, Virginia, possessed of real and personal property; that the said Sebastian S. Slemp had no children, but left surviving him, his wife, Velerie Slemp, and the following brothers and sisters, and children of brothers and sisters, namely: Alfred Slemp, T. H. Slemp, John Slemp, David Slemp, S. M. Wampler, formerly Slemp, Susan, who married John Barker, Margaret, who married W. S. Cox, Alpha, who married Hiram Reese, and died, leaving the following heirs, Cora, who married _____ Patterson, Flora C. who married _____ Courn, John J. Reese, Ate Reese, Arthur Reese, Rebecca N. Reese, Alpha N. Reese, Lou M. Reese and Alice Reese, who married _____ Hall, the last four being infants; all of whom were full brothers and sisters of the said S. S. Slemp; and J. F. Slemp, Eurie L. Slemp, who married John W. Brumit, Lafay-

ette Slempe, Robert Slempe, Florence Slempe, who married Tom Coomer, Martha Slempe, who married John Barker; who were half brothers and sisters of the said S. S. Slempe; all of whom are heirs at law, and distributees of the said Sebastian S. Slempe;

That since the death of the said Sebastian S. Slempe, the said Velerie Slempe, has died ~~intestate~~, leaving the following heirs at law and distributees, F. T. Riddle, Jane C. Riddle, J.

W. B. Riddle, J. B. F. Riddle and Malissa Howard: ~~brothers and sisters, and Erik Coter, a nephew, and the said Velerie Slempe left no other heirs at law or distributees.~~
Your complainants believe that the said S. S. Slempe

died intestate; since his death a paper-writing, purporting to be his last will and testament, in the words and figures following,

to-wit: "In the name of God Amen I Sebastian S. Slempe do make this my last will and Testament in manner and form following First I Will and bequeath to my wife all of my money notes and personal property, including all household and kitchen furniture, 2nd I hereby revoke all other wills made by me given under my hand this 21st day of November, 1905.

S S Slempe"

has been admitted to probate in this Court, or in the Clerk's Office hereof in vacation, whereby he gives all of his personal property of whatever nature, kind and description unto the aforesaid Velerie Slempe, his wife; the order admitting the said will to probate was made on the ___ day of Nov, 1906; an attested copy of the said order and the said paper, ^{writing} is herewith filed marked "Exhibit" thereafter ~~that Mr. J. B. Riddle~~ has qualified as Administrator with the will annexed, copy of which qualification and order is herewith filed, marked "Exhibit B"; under said will.

Your complainants allege and charge that the paper-writing aforesaid, of which probate has been received is not the will and testament of Sebastian S. Slempe;

In tender consideration whereof, and for as much as complainants are remediless save upon an appeal to this Honorable Court, your complainants pray that the said F. T. Riddle, Jane

X and left an alleged will, of which the said Alfred Slempe, has qualified as Executor attempting to request extensive personal property, more than all of which he was bequeathed to her under the paper writing herewith referred to, to her aforesaid heirs at law and distributees and one F. T. Riddle.

Sealed and delivered by me, the undersigned, Clerk of the Court, this 1st day of December, 1906, at the Court House in the City of New York, in and for the Southern District of New York.

C. Riddle, J. W. B. Riddle, J. B. F. Riddle, Malissa Howard,
Alfred Slemp, T. H. Slemp, John Slemp, David Slemp, Cora Patterson,
Flora C. Courn, John J. Reese, Ate Reese, Arthur Reese, and Lafayette
Critt Center, ~~the Riddle and Alfred Slemp, Admin. aforesaid,~~
~~ette Slemp, and~~ ~~Administrator, with the will~~
~~of S. S. Slemp Susan Borer and John Borer~~
annexed, be made parties defendant to this bill and be required to
answer the same, but not under oath, that being waived, and this
merely as a step or part of this proceeding to obtain a trial before
a jury; that proper process issue, including an order of publication
against the said Malissa Howard who is a non-resident of this Com-
monwealth; that an issue devisavit vel non be made up and tried by
a jury at the bar of this Court to ascertain and try whether the said
paper-writing admitted to probate as aforesaid is, or is not, the
true last will and testament of the said Sebastian S. Slemp; that the
said probate be set aside; that the said paper-writing be declared
and decreed not to be the last will and testament of the said Se-
bastian S. Slemp, and that all such other further and general re-
lief be afforded your complainants as the nature of their case may
demand, and to equity shall seem meet.

And your complainants will ever pray, etc.

Bullitt & Kelly,
Jno. W. Chalkey,
ppp.

Plffs. costs:
 Clerk \$19.17
 Shff. 15.40
 Printer 3.00
 Wits. 27.04
\$64.61

Drfts. Costs recovered:
 Clerk \$3.40
 Shff. 3.90
 atty. 15.00
 Wits. 7.22
\$29.52

A. Melvina Hamplex et al

} Bill in Chancery

J. J. Riddle et al.

1907 1st Sept Rules

Bill filed, Spa.
 executed as to all
 Defts except Flora C.
 Coum, Arthur Reese, Gora
 Patterson, Ale Reese, John
 J. Reese and Malissa How-
 ard & O.P. for Malissa How-
 ard & contd.

" 2nd September Rules

" could
 1st Oct Rules
 Ans. filed & O.P. completed.

BULLITT & KELLY
 ATTORNEYS-AT-LAW
 BIG STONE GAP AND BRISTOL, VA.

CIRCUIT COURT OF LEE COUNTY, VIRGINIA.

TO THE HONORABLE H. A. W. SKEEN, JUDGE OF THE CIRCUIT COURT OF
LEE COUNTY, VIRGINIA:

COMPLAINANTS, S. M. Wampler, Florence Coomer and T.
D. Coomer, her husband, J. F. Slemp, Eurie L. Brumit and John W. Brum-
it, her husband, Margaret Cox and W. S. Cox, her husband, Martha
Barker and J. G. Barker, her husband, L. J. Slemp, R. E. L. Slemp,
and Rebecca N. Reese, Alpha N. Reese, Lou M. Reese and Alice Reese Hall,
by S. M. Wampler their next friend, state unto the Court as follows:

That S. S. Slemp, a citizen and resident of Lee County,
Virginia, departed this life on the ___ day of November, 1906; that the
said S. S. Slemp had no children, but left surviving him his wife, Velerie
Slemp, and the following brothers and sisters and children of brothers and
sisters, namely: Alfred Slemp, T. H. Slemp, John Slemp, David Slemp,
S. M. Wampler, formerly Slemp, Susan, who married John B. Barker,
Margaret, who married W. S. Cox, Alpha, who married Hiram Reese, and
died leaving the following heirs, Cora who married _____ Patterson,
Flora C. , who married _____ Courn, John J. Reese, Ate Reese, Arthur
Reese, Rebecca N. Reese, Alpha N. Reese, Lou M. Reese and Alice Reese,
who married _____ Hall, the last four being infants; all of whom
were the full brothers and sisters of the said S. S. Slemp; and J. F.
Slemp, Eurie Slemp, who married John W. Brumit, Lafayette Slemp, Robert
Slemp, Florence Slemp, who married Tom Coomer, Martha Slemp, who married
John Barker; who were half brothers and sisters of the said S. S. Slemp;

That at the time of the death of the said S. S. Slemp he was owner of the land hereinafter referred to; that the said S. S. Slemp, for several years prior to his death had been in a very feeble health and diseased in both mind and body and was incapable of transacting business, and was non compos mentis for at least two years prior to his death; that while he was in the condition aforesaid, to-wit, on the 21st day of November, 1905, the said Velerie Slemp, John Slemp and David Slemp fraudulently and by the use of undue influence procured the said S. S. Slemp to sign and acknowledge a certain deed dated on the 21st day of November, 1905, purporting to convey to the said Velerie Slemp, John Slemp and David Slemp a certain tract or parcel of land lying in Lee County, Virginia, containing one hundred and seventeen (117) acres, more or less, known as the Home Tract, a copy of which deed is filed herewith as part hereof, marked "Exhibit A"; that at the time of the execution of the said deed, the said S. S. Slemp was mentally incapable of transacting business and was of unsound mind, and your orators charge that for this reason the said deed was absolutely void;

That moreover, the said deed was never delivered to the said grantees; that the said S. S. Slemp retained the said deed in his possession, for the reason, as your orators are informed, believe and charge, that he, the said S. S. Slemp, thought that he might thereafter desire to make changes in the said deed, or might desire to wholly cancel the same, and that the said deed continued and remained in the possession of the said S. S. Slemp until, either the day after he died, or until just a day, or possibly two days, before he died, and was then taken by the said grantees from the place where the said S. S. Slemp had it in his dwelling house, and was by the said grantees, put to record; that, as before stated, complainants do not know whether the said deed was taken, as aforesaid, from the possession of the said S.

Slemp just after or just before his death, but the said S. S. Slemp was absolutely unconscious for many days prior to his death, and absolutely incapable of transacting any business whatsoever, and if the said deed was taken possession of as aforesaid, just prior to the said Slemp's death, as aforesaid, it was taken into possession without authority from the said S. S. Slemp, and complainants are advised and charge, that it is, therefore, immaterial whether the said deed was taken possession of by the said grantees after the death of the said Slemp, or just before his death as aforesaid, for in either case, as your ~~x~~ orators are advised and charge, the said deed was never delivered, and is for this reason also absolutely void and of no effect.

That the said Valerie Slemp, John Slemp and David Slemp have nevertheless taken possession of the said one hundred and seventeen (117) acre tract of land purported to be conveyed to them as aforesaid, and are claiming the said deed is valid, and are insisting that they are the owners of the said land under the said deed; that complainants are advised and charge that as heirs of the said S. S. Slemp, they are entitled to certain undivided interests in and to the said tract of land; that the said S. S. Slemp owned no other real estate at the time of his death, excepting a certain tract containing one hundred and eighty (180) acres in controversy in another suit about to be instituted by complainants against certain of the defendants hereto, and complainants charge that the said deed should be set aside, cancelled and held for nought, and that the said land should be divided and partitioned among the heirs of the said S. S. Slemp, or, that if it cannot be divided without impairing the value of the said lands, that the same should then be sold and the proceeds divided among the said heirs in accordance with their respective interests as above shown.

Complainants further state that since the death of the

And the said Valerie Slomp left an alleged will whereby she attempted to devise her alleged 33 acre undivided interest in the aforesaid 117 acre tract of land to said Jane C. Riddle for life, with remainder to said J. C. Riddle charged with certain payments to her said other heirs and devisees and attempted to bequeath certain personal property to all of said heirs, of which alleged will the said Alfred Slomp qualified as executor a copy of which said alleged will and qualification is filed herewith as a part heretofore marked "Exhibit B."

said S. S. Slomp, his wife, the said Velerie Slomp, departed this life ~~intestate~~, leaving as her heirs at law, the following ~~children~~ ^{persons} by a former husband, namely: F. T. Riddle, Jane C. Riddle, J. W.

B. Riddle, J. B. F. Riddle, and Malissa, who married Wilson Howard; and Crit Carter the said Carter being the only son of her deceased sister Mary Carter, and the said other persons being her brothers

Complainants further state that the said John Slomp and the said David Slomp have recently instituted in this Honorable Court a suit inequity against the aforesaid ^{heirs and devisees} ~~children~~ of the said Velerie, for the purpose of having partitioned among them selves the said tract of land, which they claim was conveyed to them by the said S. S. Slomp by the deed aforesaid; that no order has yet been entered in the said suit, but the same will be matured, as complainants are informed, at the present term of this Court; that complainants are advised that all proceedings in the said last named suit should be stayed until this suit is finally decided;

WHEREFORE, complainants pray that the said Alfred Slomp, T. H. Slomp, John Slomp, David Slomp, Susan Barker and John B. Barker, her husband, Cara Patterson, Flora C. Courn, John J. Reese, Ate Reese, Arthur Reese, Lafayette Slomp, F. T. Riddle, Jane C. Riddle J. W. B. Riddle, J. B. F. Riddle ^{Wilson Howard and Crit Carter} and Malissa Howard, be made parties defendant to this bill, and be required to answer the same, but answer under oath is hereby waived; that the deed ^{and likewise the said will of Valerie Slomp in so far as it attempts to devise above tract of land} aforesaid be set aside, cancelled and held for nought; that the said land be partitioned among the heirs of the said S. S. Slomp as above shown in accordance with their respective interests, or that if the said land cannot be partitioned without impairing the value thereof, then, that the same be sold, and the proceeds divided among the said heirs according to their respective interests; that all proceedings in the said suit of the said John Slomp and David Slomp against the heirs of Velerie Slomp, for partition as aforesaid, be stayed, until this suit has been finally decided;

that all proper process issue against all of the said defendants,
~~excepting Malissa Howard, who is a non-resident; all of the said~~
~~other defendants being sui juris and residents of the State of~~
Virginia, and that an order of publication be issued against the said
Malissa Howard; ^{and Erik Carter} and for costs and such other further and general
relief as the nature of the case may require and to equity may seem
meet;

And Complainants will ever pray, etc.

Bullett & Alley
J. W. Buckley
p.p.

Plffs' costs:
Clerk \$14.33
Shff. 5.50
Printer 3.00
N.P. 20.63
\$43.46

Defts' costs recovered:
Clerk \$1.20
Atty. 15.00
N.P. 37.50
Wats. 4.67
\$58.37

A. M. Thompson, et al.

} Bill in Chancery.

Alfred Thompson, et al.

CIRCUIT COURT OF LEE COUNTY, VIRGINIA.

TO THE HONORABLE H. A. W. SKEEN, JUDGE OF THE CIRCUIT COURT OF LEE COUNTY, VIRGINIA:

COMPLAINANTS, Florence Coomer and T. D. Coomer, her husband, S. M. Wampler, J. F. Slemp, Eurie L. Brumit and John W. Brumit, her husband, Margaret Cox and W. S. Cox, her husband, Martha Barker and J. G. Barker, her husband, L. J. Slemp, R. E. L. Slemp, and Rebecca N. Reese, Alpha N. Reese, Lou M. Reese and Alice Reese Hall, by their next friend, S. M. Wampler, state unto the Court as follows:

That S. S. Slemp, a citizen and resident of Lee County, Virginia, departed this life on the ____ day of November, 1906; that the said S. S. Slemp had no children, but left surviving him his wife, Velerie Slemp, who has since died, and the following brothers and sisters and children of brothers and sisters, namely: Alfred Slemp, T. H. Slemp, John Slemp, David Slemp, S. M. Wampler, formerly Slemp, Susan, who married John Barker, Margaret, who married W. S. Cox, Alpha, who married Hiram Reese, and died, leaving the following heirs, Cora, who married _____ Patterson, Flora C., who married _____ Courn, John J. Reese, Ate Reese, Arthur Reese, Rebecca N. Reese, Alpha N. Reese, Lou M. Reese, and Alice Reese, who married _____ Hall, the last four being infants; all of whom were full brothers and sisters of the said S. S. Slemp; and J. F. Slemp, Eurie L. Slemp, who married John W. Brumit, Lafayette Slemp, Robert Slemp, Florence Slemp, who married Tom Coomer, Martha Slemp, who married John Barker; who were half brothers and sisters of the said S. S. Slemp;

That at the death of the said S. S. Slemp he was the owner of the land hereinafter referred to; that the said S. S.

Slemp, for several years prior to his death had been in very feeble health and diseased in both mind and body, and was incapable of transacting business, and was non compos mentis for at least two years prior to his death; that while he was in the condition aforesaid, to-wit, on the 21st day of November, 1905, the said T. H. Slemp and Alfred Slemp fraudulently and by the used of undue influence procured the said S. S. Slemp to sign and acknowledge a certain deed, dated on the 21st day of November, 1905, purporting to convey to the said Alfred Slemp and T. H. Slemp a certain tract or parcel of land lying in Lee County, Virginia, containing one hundred and eighty acres, more or less, a copy of which deed is filed herewith as a part hereof, marked "Exhibit A"; that, ^{at} the time of the execution of the said deed the said S. S. Slemp was mentally incapable of transacting business and was of unsound mind, and your orators charge that for this reason the said deed was absolutely ~~x~~ void;

That, moreover, the said deed was never delivered to the said grantees; that the said S. S. Slemp retained the said deed in his possession, for the reason, as your orators are informed, believe and charge, that he, the said S. S. Slemp, thought that he might desire to thereafter make changes in the said deed, or might desire to wholly cancel the same, and that the said deed continued and remained in the possession of the said S. S. Slemp until either the day after he died, or until just a day, or possibly two days before he died, and was then taken by the said grantees from the place where the said S. S. Slemp had it in his dwelling house, and was, by the said grantees put to record; that, as before stated, complainants do not know whether the said deed was taken, as aforesaid, from the possession of the said S. S. Slemp just after or just before his death, but the said S. S. Slemp was absolutely unconscious for many days before his death, and absolutely incapable of transacting any business whatsoever, and if the said deed

was taken possession of as aforesaid, just prior to the said Slemp's death as aforesaid, it was taken into possession without authority from the said Slemp, and complainants are advised and charge, that it is, therefore, immaterial whether the said deed was taken possession of by the said grantees after the death of the said Slemp, or just before his death as aforesaid, for, in either case, as your orators are advised and charge, the said deed was never delivered, and ~~it~~ is, for this reason also, absolutely void and of no effect.

That the said Alfred Slemp and T. H. Slemp have, nevertheless, taken possession of the said One hundred and eighty (180) acre tract of land purported to be conveyed to them as aforesaid, and are claiming that the said deed is valid, and are insisting that they are the owners of the said land under the said deed; that complainants are advised and charge that as heirs of the said S. S. Slemp, they are entitled to certain undivided interests in and to the said tract of land; that the said S. S. Slemp owned no other real estate at the time of his death, excepting a certain tract containing one hundred and seventeen (117) acres in controversy in another suit about to be instituted by the complainants against the defendants hereto and others, and complainants charge that the said deed should be set aside, cancelled and held for nought, and that the said land should be divided and partitioned among the ~~the~~ heirs of the said S. S. Slemp, or, that if it cannot be divided, without impairing the value of the said land, that the same should then be sold and the proceeds divided among the said heirs in accordance with their respective interests as above shown.

WHEREFORE, complainants pray that the said Alfred Slemp, T. H. Slemp, John Slemp, David Slemp, Susan Barker and John B. Barker, her husband, Cora Patterson, Flora C Courn, John J. Reese, Ate Reese, Arthur Reese and ~~Lafayette Slemp~~ be made parties

defendant to this bill, and be required to answer the same, but answer under oath is hereby waived; that the deed aforesaid be set aside, cancelled and held for nought; that the said land be partitioned among the heirs of the said S. S. Slomp as above shown in accordance with their respective interests, or that if the said land cannot be partitioned without impairing the value thereof, then, that the same be sold, and the proceeds divided among the said heirs according to their respective interests; that all proper process issue against all of the said defendants; and for costs and such other further, and general relief as the nature of the case may require, and to equity may seem meet.

And Complainants will ever pray, etc.

Bullitt & Kelly
Bullitt & Kelly,
Jno. W. Chalkley
Jno. W. Chalkley, p. q.

Florence Coomes, et al.

vs. } Bill in Equity

J. H. Slemmons, et al.

Plffs' costs:
Clerk \$10.39
Shff. 3.50
Printer 3.00
N. P. 20.62
\$37.51

Defts' costs recovered:
Clerk \$0.90
Atty. 15.00
N. P. 37.50
Wits. 4.67
\$58.07

CIRCUIT COURT OF LEE COUNTY, VIRGINIA.

TO THE HONORABLE H. A. W. SKEEN, JUDGE OF THE SAID COURT.

The joint and separate answer of F. T. Riddle, Jane C. Riddle, J. W. B. Riddle, J. B. F. Riddle, Malissa Howard, Crit Carter, Alfred Slemp, T. H. Slemp, John Slemp and David Slemp to a bill exhibited against them and others in this honorable court by S. Melvina Wampler and others.

Not waiving all just exceptions to said answer, respondents answering say:

It is true that S. S. Slemp died November 21, 1906, having a mansion house in and being a resident of Lee County, Virginia, possessed of real and personal property; that he had no children and left surviving him his wife and the brothers and sisters and children of brothers and sisters, as named in the said bill.

It is true that his wife, the said Velerie Slemp, died after the death of the said S. S. Slemp, but it is not true that she died intestate; she left a will, which was duly probated in the circuit court of Lee County, and a certified copy thereof is herewith filed, marked "Exhibit 1."

It is not true that the said S. S. Slemp died intestate; a year before his death, to-wit: on the 21st of November, 1905, he made, executed and published his last will and testament, a copy of which is set out in the plaintiff's bill, which will disposed of all his personal property unto his wife, the said Velerie Slemp. Respondents deny that the said writing, which was probated, is not the true will and testament of the said S. S. Slemp, but on the contrary they say that the same was his last will and testament.

WHEREFORE, having answered as fully as they are advised
it is material they should answer, respondents pray to be
hence dismissed with their proper costs in this behalf expended.

J. C. Hall
Duncan & Endlin

Lucas & Morrison
P. D.

S. Melvin Waupler et al
vs { answer of Defts.
J. J. Riddle and others

J. J. Riddle et al

Filed at 1st Oct. 1907
H. C. D. Ewing. Clerk

CIRCUIT COURT OF LEE COUNTY, VIRGINIA.

TO THE HONORABLE H. A. W. SKEEN, JUDGE OF THE CIRCUIT
COURT OF LEE COUNTY, VIRGINIA:

The joint and separate answer of John Slemp, David Slemp,
Alfred Slemp, J. H. Slemp, Alfred Slemp, Executors &c.
F. T. Riddle, Jane C. Riddle, J. W. B. Riddle, J. B. F. Riddle,
Malissa Howard and Crit Carter to the bill exhibited against
them and others in this honorable court by S. M. Wampler and
others.

Not waiving all ^{Errors} ~~laws~~ and objections that may be made to
the said bill for its imperfections, respondents yet answering
say:

It is true as stated in the bill that S. S. Slemp, a
citizen and resident of Lee County, Virginia, departed this
life on the 21st day of November, 1906, without children,
leaving to survive him his wife, Valerie Slemp and other
heirs, as stated in the bill, and it is also true that the
said Valerie Slemp departed this life, but it is not true
that she died intestate; on the contrary she first made and
published her last will and testament, in accordance with
which she devised her property to those of your respondents,
who are set forth in the said bill as heirs at law of the
said Valerie Slemp; the said will has been duly probated in
this court, and respondents herewith file a certified copy
thereof, marked "Defendants Exhibit No. 1."

It is not true that for several years prior to his death
the said S. S. Slemp had been in feeble health, diseased in
both mind and body and was incapable of transacting business,
nor that he was non compos mentis for at least two years prior
to his death, or for any other time. It is true that he was in
bad health physically a year or two prior to his death, but

his ill health did not affect his mind; respondents say that he was at all times prior to his death, and particularly at the time of the making of the deed referred to in the bill, to-wit: November 21, 1905, of sound mind and disposing memory; they say that on said last named date he was the owner of the tract of land containing 117 acres, which is in controversy in this cause; and it is true that on said date he executed the deed referred to in the bill, a copy of which is filed as "Exhibit A" therewith; they say it is not true that the said Velerie Slomp and these respondents, John Slomp and David Slomp, fraudulently and by the use of undue influence procured the said S. S. Slomp to sign and acknowledge the said deed, but on the contrary they say that the said act was done voluntarily and freely by the said S. S. Slomp without any fraud or undue influence on the part of said respondents, or of the said Velerie Slomp; and they again say that the said S. S. Slomp was of sound mind and disposing memory at the time he made the said deed; they say that being in ill health and being aware that he would probably not live a great while from said date, he made disposition of all his estate, real and personal, and in doing so he made a will of his personal estate to his wife, ~~The~~ said Velerie Slomp and a deed conveying a portion of his lands to his brothers Alfred and T. H. Slomp, and the deed in controversy herein, to-wit: the deed conveying the remainder of his real estate to his wife, the said Velerie Slomp and these respondents John Slomp and David Slomp; they say that these transactions were the carrying out of a settled purpose conceived long prior to said date by the said S. S. Slomp for the disposition of his property in the event of his death, and the said deeds were made so as to take effect at the time of his death rather than to make a will disposing of his said real estate in the same manner.

They say it is not true that the deed in controversy

was never delivered and deny that the said S. S. Slemp retained the said deed, ^{with the} ~~which was~~ thought that he might thereafter desire to make changes therein, or to wholly cancel the same, and deny that the said deed remained in the possession of the said S. S. Slemp until either the day after he died or until a day or two prior thereto, and deny that it was taken by the said grantees from the place where the said S. S. Slemp had it in his dwelling house and by them put to record; they say that the said deed was, on the day of its execution, delivered to his wife, Velerie Slemp for the benefit of herself and the other two grantees therein, and it was by her retained in her possession and under her control until a few months prior to the death of the said S. S. Slemp when she gave this ^{deed and the aforesaid} ~~will~~ and the other deed, above referred to, to Alfred Slemp for the purpose of caring for and preserving the same, and they say that the said documents were by him kept and preserved until the death of the said S. S. Slemp, when in accordance with the wishes of the latter the two deeds were placed of record and the will was probated.

It is true that the said Velerie Slemp and your respondents John Slemp and David Slemp took possession of the said tract of land, and that the devisees of the said Velerie Slemp and your respondents John Slemp and David Slemp are now claiming that the said deed is valid, and that they are the owners of the said land; they deny that the plaintiffs are entitled to any interest in the said lands, and deny that the said lands should be partitioned as prayed for in the plaintiffs' bill; it is true that the partition suit referred to in the bill between these respondents, John Slemp and David Slemp of one side and the devisees of the said Velerie Slemp of the other is now pending in this court, but these respondents deny that complainants have any grounds for resisting the partition which is sought in said suit, and deny that the said suit should be stayed pending a settlement

of this litigation or for any other cause.

And now having answered as fully as they are advised
it is material that they should answer, respondents pray
to be hence dismissed with their proper cost in this
behalf expended.

J. C. Noel
Duncan & Endlin
Hume & Moisen
P. D.

S. W. Maupler et al
vs. { answer of Alfred Sleep et al

Alfred Sleep et al

Filed Oct. 7, 1907, Dist. Ct. Va.

H. C. D. Ewing, Clerk

CIRCUIT COURT OF LEE COUNTY, VIRGINIA.

TO THE HONORABLE H. A. W. SKEEN, JUDGE OF THE CIRCUIT COURT
OF LEE COUNTY, VIRGINIA:

The joint and separate answer of Alfred Slemp and T. H. Slemp to a bill exhibited against them and others by Florence Coomer and T. D. Coomer, her husband, and others.

These respondents, saving the benefit of all such exceptions as can or may be had to said bill for its many mis-statements of fact and errors of law, and answering so much thereof as they are advised that it is material or necessary for them to answer, say:

That it is true that S. S. Slemp, a citizen and resident of Lee County, Virginia, departed this life on the 21st day of November, 1906; it is further true that the said S. S. Slemp had no children but left surviving him his wife, Velerie Slemp, and the several brothers and sisters mentioned in said bill; it is further true that the said Velerie Slemp has since died; that she left surviving her the brothers and sisters and children of brothers and sisters mentioned and set out in said bill; it is further true that at the death of the said S. S. Slemp he was in possession of the tracts of land mentioned and referred to in said bill; it is not true, however, that he was the fee simple owner of said land, because on the 21st day of November, 1905, he had conveyed away, by deed, all the lands which he owned at that time, reserving to himself the use, occupation and enjoyment of said land during the remainder of his life time, copies of which deeds are herewith filed, marked "Exhibit 1 and 2" respectively.

Respondents say that it is not true that for several years prior to his death the said S. S. Slemp had been in very feeble health and diseased in both mind and body, and was incapable of transacting business and was non compos mentis, for at least two years prior to his death, or for any other period of time; it is true, however, that for a year or two prior to his death the said S. S. Slemp was and had been in declining health physically, but his knowledge of business, his ability to control it, or his knowledge of the disposition he wanted to make of it was as clear and strong as it had been at any time during his life, and that the disposition he made of his property on that day, to wit, the 21st day of November, 1905, was the consumation of a purpose well settled, and which had been determined upon by him for years prior to the date of said deed.

Respondents say that it is not true that on the 21st day of November, 1905, your respondents, the said T. H. Slemp and Alfred Slemp, fraudulently and by the use of undue influence procured the said S. S. Slemp to sign and acknowledge a certain deed, dated on that day, purporting to convey to the said Alfred Slemp and T. H. Slemp a certain parcel of land lying in Lee County, Virginia, containing 180 acres, more or less, and it is not true that they at any time on that day or any time prior used any undue, improper or fraudulent means to secure a conveyance to themselves of said land; these respondents considered their brother as fully competent to transact his business; they knew that he was a man of strong convictions and of firm purposes, and when he made up his mind to do a thing or not to do so, no influence of theirs would change that purpose; these respondents positively deny that at the time of the execution of said deed the said S. S. Slemp was mentally incapable of transacting business and of unsound mind, or that said deed for that reason or for any other, was absolutely void.

Respondents deny the allegation in said bill that said deed was never delivered to the said grantees; they deny that the said S. S. Slemp retained the said deed in his possession for the reason that he thought that he might desire thereafter to make changes in said deed or that he might desire to wholly cancel the same, or that he retained it in his possession for any other purpose during his lifetime, but on the contrary they assert that on the day that the said deed and the deed to Velerie Slemp, David Slemp and John Slemp was written and acknowledged, that it was delivered by the said S. S. Slemp to his wife, one of the grantees, with directions to her to deliver the deed made to these respondents to your respondent, the said Alfred Slemp; and said deed, so far as respondents know, was never in his possession any more; and it is further true, as respondents aver, that the said Velerie Slemp, into whose custody the said S. S. Slemp had entrusted said deeds for delivery for some five or six months prior to the death of said S. S. Slemp, delivered both of said deeds to the said Alfred Slemp, for the benefit of the grantees in said deeds, and after they were so delivered to the said Alfred Slemp, and after the said Velerie Slemp had recovered from an operation that was performed on her, some five or six months before the death of the said S. S. Slemp, the said Alfred Slemp gave these deeds back to the said Velerie Slemp and asked her if she had a good and secure place in which to keep them; to retain them in her possession until such time as it was necessary that they should be placed upon record; and it is true that these deeds remained in her possession, which was at the dwelling house of the said S. S. Slemp until a few days before his death when the said Velerie Slemp again delivered these deeds and asked the parties to have them recorded, but respondents deny that at any time after they were executed and delivered to the said Velerie Slemp ~~that~~ they were ever in the possession of the said S. S. Slemp, or that he had any control ,

or sought or attempted to exercise any control over them.

It is further true that your respondents have taken possession of the said 180 acre tract of land thus conveyed to them as aforesaid, and it is true that they ^{are} claiming that the said deed is valid and are insisting that they are owners of the said land under the said deed, and your respondents deny that the said plaintiffs are entitled to certain undivided interests, or to any interest in said tract of land.

It is further true that at the time of his death the said S. S. Slemp owned no lands at all except he owned the life estate in the tract of 180 acres, and in the tract conveyed to his wife Velerie Slemp and his two brothers John and David Slemp, and they deny that said deed should be cancelled, set aside and held for nought, but on the contrary they say that said deed should be confirmed and they should be left in quiet and undisturbed possession of said tract of land, which was really purchased for them by their brother, long before his death.

And now having answered said bill, they pray they be hence dismissed with their reasonable costs in this behalf expended.

*J. C. Noel,
Duncan & Endlin
Quinn & Monson
P. D.*

Flannice Coomer et al
vs. { answer of J. H. + Alfred ^{Slings}
J. H. Slings et al
Filed 1st Oct. Rules, 1907.
J. G. T. Ewing, Clerk

S. M. WAMPLERComplainant.

Vs.

IN CHANCERY.

John SLEMP et alDEFENDANTS.

Melvin WAMPLER.....Complainant.

Vs.

F. T. RIDDLE..et.al.....Defendants.

and

Florence Coomer, et al......Complainant

Vs.

Alfred Slemph, et al,

Defendants.

These causes came on again this day to be heard upon the papers formerly read therein and the decree entered in said cause on a former day of this term of the court, and was argued by counsel.

And the court now being fully advised, on full consideration of the pleadings, depositions, and the various exceptions to the depositions, it is adjudged, ordered and decreed that the exceptions filed to the depositions of John Slemph, Alfred Slemph and David Slemph, be and the same are hereby over-ruled, and none of the other objections to the depositions of witnesses being insisted upon, they and each of them are over-ruled.

And it is further adjudged, ordered and decreed that said bills and each of them be and the same are hereby dismissed, and said causes are each stricken from the docket.

And it is further adjudged, ordered and decreed that the defendants recover against the plaintiffs their costs expended in each of said causes to be taxed by the clerk, and for which execution may issue. And these causes are stricken from the docket.

S. M. Wampler does

75-3 *Leona*
Finch

Alfred Skemp it is

Entered in Colls
H. J. page 536

Enter this date

H. A. W. Skemp

Sept. 20th 1907

CIRCUIT COURT OF LEE COUNTY.

S.M.WAMPLER ET AL

VS

JOHN SLEMP, ET AL

FLORENCE COOMER, ET AL

VS

ALFRED SLEMP, ET AL

MELVINA WAMPLER, ET AL

VS

F.T.RIDDLE, ET AL

The parties in the above named cause of Melvina Wampler et al, vs. F.T. Riddle/ et al, having waived a trial by jury, and agreed that the issues thereon should be heard and decided by the court, now by further agreement of all of said parties in all of said cases it is ordered that all of said cases be heard together, it being understood that the evidence taken in any of said cases may be read in all thereof subject to exceptions for incompetency and irrelevancy.

And said causes coming on this day to be heard, the plaintiffs, by counsel, in each of said cases, announced that they would not read, and did not read, the deposition heretofore, taken, of R. E. L. Slomp, and thereupon, defendant, by counsel, in each of said cases objected to the refusal of plaintiffs to read said deposition and announced that they, themselves, would read that same if the court held that plaintiffs had any right to refuse to read same.

And thereupon said cases were heard by the court on the pleadings, exhibits, and depositions of witnesses, the said deposition of R.E.L. Slomp being read by defendants, and also upon the exceptions of the parties to ^{divers} ~~several~~ portions of said evidence

and particularly on the exceptions of the plaintiffs to the depositions of John Slemp, David SSlemp, and Alfred Slemp on the ground that each and all of the said witnessess were incompetent, and all of said matters were fully ^{argued} ~~agreed~~ by counsel, and the court not being advised takes time to consider its opinion.

S. M. Wampler
et al

vs. } Deane

John Deane
et al

H. W. S. W.
Judge

Enter this

Sept. 15, 1907

Entered in C. B.
#8, page 527

*Push in statement of objection
before examination
difo. same Slomp p. 58.
Lehall Klags Copy*

Extracts from the testimony of witnesses in
the case of S. M. Wampler, et al, vs. Alfred Slomp, et al.

Joshua E. Hobbs.

Q. Did you as Commander of the Hospital get reports from the Doctors as to the trouble of different people?

A. I did as to some cases--but there was no cases specified, who and who was sick with so and so. There was about four hundred or a little over four hundred reported in the hospital division when I was there that had the clap and poe--few over four hundred --pretty rotten thing.

Q. Was S. S. Slomp reported?

A. Well, sir, I couldn't tell you--it was said that that was his trouble. *****

Q. What I want to know is whether the Doctor reported S. S. Slomp as having a certain disease?

A. I couldn't say that they did, it was said by some of the nurses that that was his trouble.

++++++

Q. State whether there was any general report through the country as to what his condition was?

A. I don't know whether there was any general report--I had heard it reported that his mind had failed him.

Q. How long before his death was it reported that his mind had failed him?

A. I guess two or three years may be--two or three. Had heard something said.

Elkanah Pennington.

After Mr. Pennington had bought Mr. Slomp's cattle, and had agreed upon a time to take them up, and he thought the matter was all closed---

Time about 5 yrs prior to Aug. 20, 1908.

Q. Tell what occurred about the cattle after that?

P. 11
A. Well, I was weighing Jimmie Collier's cattle at John Gilly's, and some of them said to me--I suppose they had heard that I had bought Bass's cattle--"I understand you are not going to get the Bass Slomp cattle?" I said, "Why not"--I think he had heard Bass say so, any way he learned that I was not going to get the cattle.

Q. Did you see Slomp about the cattle?

P. 11
A. On my way home I met him and I named it to him, that I would ^{be} ~~go~~ up after the cattle in a few days, and he made rather strange and said he was about selling them to another man. I says "Bass, I have bought your cattle and paid some on them". He did not seem to recollect the payment. I got the receipt which he gave me and read it to him, I said "I don't want to do anything wrong, but I have even sold your cattle", I believe he said something about a man being too quick to sell, or something of the sort. Spoke something about that I ought to wait until I get the cattle. I told him I had paid some on the cattle and Elbert Flanary witnessed the trade. I sold the cattle to Mr. Bales. Well he rather jowered with me a little. I says, "Can't afford to have any hard words about it." He says, "When will you be after the cattle". I told him I would be after them some day before my time was out according to the receipt here, so I went on and we weighed the cattle.

++++++

P. 13
Q. Mr. Pennington, what was the general report through the neighborhood as to the condition of Bass Slomp's mind for two or three years before he died?

A. Well, I had occasionally heard people speak of Bass's mind being wrong and so on. Don't know as I could remember who talked it. I remember one fellow having a talk with me that was John Rivers.

Q. So far as you did form any opinion, what was that opinion?

A. I could only form an opinion from what I heard people say, that Bass's mind was in bade shape. (Pages 13-14)

J. K. P. Barron.

Time about 1 yr before S.S. Slemp's death

Q. Did he come to see you concerning the duebill?

p18
A. Yes, sir, +++Mr. Slemp came in at the back of the house, from around towards the Spring; I asked him--inquired how he came to come in that direction. He had gone around by Gilly's and up the branch and accross the hill.

Q. Do you mean that he had gotten lost?

A. Seemed that he had, or had missed his route--when he got over there he found that he had to come back across the hill to the house by the spring. I talked with him a little.

(Page 18)

p19-20
Q. What I want to get at is, Mr. Barron, whether or not, knowing the situation as you do, you can state, or cannot state, whether a man in his right senses, having lived in that neighborhood as long as S. S. Slemp had, could have lost his way and come around the way he did?

A. Well, it seems that he was confused. Must have been confused as to the route he took. (Pages 19 20.)

Q. And he satated to you that he had lost his way?

A. Well, I don't remember just what he stated, but the inference that I drew from his talk was that he had missed his way--

++++++

*Time
September before he died*

p20
Q. State what occurred then?

A. I had been down to the meadow where I had some men at work. I saw him turn up the road leading to my house and supposed that he wanted to see me, and I called him to stop. He stopped and turned around and started back, and we met just about the forks of the road. After a few words, I told him that we would go on

back--I thought he was going to my house. He says, "No, I am going around to see another man". Seemed that he could not get the man's name. I asked him if it was Shuler, and he said it was not, and I asked him if it was Gilly, and he said it was. He had sold him his cattle. (Page 20)

Q. Was he or not going in the right direction at the time to get to John Gilly's house?

A. He had started towards my house at the time."

Q. Would that have been away from John Gilly's House instead of towards John Gilly's?

A. It would not have been going toward Gilly's house at all." (Page 20-21).

Q. State what was the general reputation in the neighborhood during the two or three years before Mr. Slomp's death as to the condition of his mind?

Page 21
25
28 *For his own observations*
A. Well, I think it was generally talked that his mind was wrong in some shape. " (Page 21)

P. 22-23: Mrs. Slomp said Bass was disappointed with his mind
Time: Fall before he died
J. J. C. Flanary.

P. 29
Q. "What was the physical and mental condition of S. S. Slomp at that time?

P. 31
A. Well, he did not seem like he knew anything much that day I was there. It was directly after his wife had been operated on. Might have been on account of that that he was off. Can't tell about that.

Q. You say he did not seem to know anything. Do you mean by that that his mind seemed to be a blank?

A. Mind seemed wrong.

Q. Did he say anything on that occasion about how the people were treating him?

A. I don't know--went there to buy a mule of him. We had bought one of Dave Slomp and Alfred Slomp--after dinner I proposed

to buy the mule colt, and he did not say anything much about it-- don't know as he said anything. I told him that I would either take \$55 for the one I got of Slamp there, or give him \$55 for his, and he sorter acted like he was going to cry. He says, "seems like people trying to take everything I've got; then I went up and went in to see his wife, and she said they would not sell it, and I got up and left." (Pages 29-30)

Q. Do you know what the general reputation--talk was about his condition for a year or two prior to his death?

A. I heard some say they didn't think he was in his right mind.
+++++. (Page 30).

R. E. L. Slamp.

A. ++++ Well, he says, suppose you have heard about my making my will, to my brothers--I wanted all my brothers and sisters to have something. Said he wanted to give it as the law allowed. Also, he says "I want Log's wife to have something, because she helped raise them." (Page 33.)

Q. Did he say anything about wanting all his brothers and sisters to have their part, and if so, what?

A. He said he wanted his brothers and sisters to have equal parts." (Page 34)

Q. When he was talking to you what was his condition? That is, was he calm, or was he excited, or did he cry, or what?

A. Well, when he told me what I told you, he commenced crying." (Page 34)

D. S. Reasor.

Q. State whether or not he had any mind at all during those two weeks? (Meaning the two weeks before his death)

A. Well, at the times I was there, I really don't know that he did. Don't know that he said anything that would make me think that he did." (Page 39)

1
p39 Q. State what was the general reputation in that neighborhood for two or three years prior to his death as to his mind?

A. I don't know about what was generally known. I heard a good deal of talk that his mind was not exactly right.

Q. How long before his death did you hear this talk?

A. Well a year, eighteen months, or may be two years. It was some time.

Q. Were there a good many people in the neighborhood that had that kind of talk?

A. +++++ I heard some several talk it." (Page 39)

C. M. Slomp.

pp4 4-6-

Q. +++ Give in detail any transactions or talk between you and him from 1904 on?

p45
1904
+
1905
A. In the month of September, I had gone over there to get a bushel of corn,+++He came in and he did not appear right that day from some cause or other. I thought perhaps he was drinking some--seemed like his mind was kinder flighty--he would be talking about one thing, and then get right off and go to talking about something else. This went on for a week, or two, when I brought my cattle down off the mountain and asked him to go and look at them--He said he did not have time that morning+++ He appeared to be kinder flighty and looked wild++ so it went on during the Spring and winter of 1904 and 1905. I made mention to one or two of his brothers that Bass was drinking too much++++Well it went on until about the first days of May he came through the field where I was,++++ and he appeared to be drunk, plumb full; I supposed that he had drunk some before he left home, and then had gone over to his brothers and they gave him some more, and he got too much. He could not talk hardly at all--tongue seemed to be paralyzed. That was the impression I had--that he had gotten too much. When he left me the last words he spoke, or tried to speak was,

1
best-46
May
1905
"I must go home, my wife is not well, and I have to help her milk."
I looked up at the sun and it appeared to be about two o'clock--
might have been as late as three. +++++ In an hour, or two
hours after that his brother Hop Slomp, who was working upon the
hill came down to the Spring to get a drink, and I said to him,
"Now, Hop, what do you think of Bass's drinking today?" He says
he aint drinking, and told me how long it had been since he drank
anything at all. Well, then, I says to him "There is something
mighty bad the matter with him then". ++++He never appeared
right at any time after I saw him in May. (Pages 45-46)

After he had had his meadow cut, and about thrashing
time. (Page 47)

July
1905
A. +++++ I thought I would joke Bass a little about cutting his
meadow. I said to him, Bass, did you get your meadow up? The
boys tell me that you are thinking about having part of it cut
over again." He said, "Who said I was going to cut part of it
again? "Why, Hop", I told him, and Alf and Hop were both standing
by, that it was not cut ~~and~~ right, and you were going to have
part of it cut again. He dropped his head down and says: Costs
too much to have it put up once let alone twice." I thought from
the way he spoke it kindly flustrated him, so I didn't want to
bother him and didn't say anything more then, and walked off and
sat down on a pile of rails. In a few minutes he comes over and
sits down by me and says: "Chad, my head is about to kill me."
I told him to go and get some pills and some medicien that his
stomach and liver were out of fix, and he ~~xx~~ said he had been
thinking about it but had not done it. They had broken a bolt out
of the steam chest and one of the parties had gone up to the machin:
to get a bolt, and had rode one of the mules off, so they pulled
up part of the machine on top of the hill about one hundred and
fifty yards +++++ So him, that is, Slomp, and Lee Coomer came on
here--He was complaining and I don't think he looked towards barn

Next day or two I went on. she was
had off. hardly knew anything

or machine, and it made an impression on me that I thought there was something the matter with him, for he was a man that always wanted to help, or asked you if you needed any help, and helped you if you needed it.++++ (Pages 47-48)

p48

Nov. 1
1905

A. +++++Never appeared right any more--went on down until October, last of October, or first of November, and I went down where the tax collector set to collect taxes and he came down there. He had a check on John Gilly for \$298.00. I think it was the amount of it, and he wanted the Treasurer to take his taxes out of it, \$64.00, and a few cents and pay him the rest in money; and the Treasurer said that he did not have that much money with him, and that he could not do that, and it seemed to worry him a good deal; but Crockett Jones told him that he would loan him a check of the amount of his taxes, that he had money in the bank, and that he, (Bass) could pay him back when he got his check cashed. He didn't know hardly what to do about it, and it seemed to bother him until he did not know whether to do it or not.

++++He didn't seem to understand what it meant--but his brother Hop Slempp, told him that it would be all right. (Page 49)

Nov. 1905
+++++Me and him left Olinger where the Treasurer was sitting that day to collect taxes, and came out a mile or something like a mile together, and he said that he was feeling mighty bad--that his head was aching, and he said he would get on home. I was riding and he was walking, and we parted right there in the Gap at Olinger's or Slempp's place.

Q. How long did he say his head had been hurting him?

A. About two weeks--been hurting and swimming so that he could hardly go and that he would try to get on home.

Q. About what time of year was that?

A. That was in November, sometime in November, or last of October, before the election.

p57 In spring of 1905, had kidney trouble
excessive urination
p5962 Since in bed in summer of fall of 1905

Q. Did he on that occasion appear to have any mind at all?

A. No, sir, nothing to amount to anything. (Pages 49-50).

+++++ Do you remember about the time he was said to have made his will?

A. That was in November, some time in November, I think about the 20th. After we shucked corn.

Q. Did you see him shortly before that time?

A. Just a few days.

Q. What was his condition then?

A. He did not seem to have any mind. That was on the occasion I came by to ask Lee Coomer to help me shuck corn. He did not seem to have any mind that day.

Q. Did you see him a day or two after he was said to have made his will?

A. Day or two after; Yes, sir; he got very bad off and I went over to see him, and sent after Ack Gilmer, he seemed to be pretty bad off and did not have much mind.

Q. How long was this after he was said to have made his will?

A. Two or three days--not later than two or three days.

(Page 50.)

Q. ~~What seemed to be the condition with Bass Slemp's mind the time you were there?~~

Dr. James P. Edmonds.

Q. Did you see him in November, 1905, on the day he was said to have made his will?

A. Yes, sir. He didn't tell me so. I think that was their business--making his will. (page 65.)

Q. What seemed to be the condition of Bass Slemp's mind the time you were there?

A. His mind seemed to be weaker than it was the year before when I saw him.

Q. What did it appear to you was the matter with him?

A. Well, from all that I heard about him, I did not

1
examine him--from what I had heard and from conversation, talking to him in a general way the day we were there, seemed to me he had some brain affection.

Q. What brain affection did you think, or conclude that he had?

A. Well, I did not arrive at any definite conclusion, but just taking from his condition, age and the way he talked, it must have been softening of the brain. I did not examine him though.

(Pages 65-66)

Q. Did his talk seem to be rambling?

A. It struck me that his talk was--I don't remember whether it was rambling. I had heard a great deal about him. I don't remember the conversation but it struck me that there was something wrong with his mind.

Q. Did it make a sufficient impression on you for the question to be raised in your mind as to whether he was capable of transacting business or not?

A. No, not at the time, it did not.

Q. After you left there, did you think of that?

A. I did, after we left, I thought something of it, and I believe I said something to Will Slomp, that I wondered if he was in a condition to fix his property intelligently.

Q. How long after you left the house, did that thought occur to you, and did you speak of it to Will Slomp?

A. Well, as I remember, immediately after we went out the gate.

(Page 66)

Q. Dr. What is softening of the brain?

A. It is a breaking down of the substance of the brain, undergoing a degeneration.

Q. After this disease has progressed for some time, does it or not, render a man mentally incapable of attending to business?

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A. A. Well, you couldn't say it renders all men incapable.

Q. Doesn't it often have the effect of rendering them incapable of attending to business?

A Yes, sir. But some of them get to be in better condition than they are during the attack; that is, the acute attack.

Q. ++++Assuming that a man has softening of the brain, and that he has an acute attack in July, and that between July and November 21st of the same year, he has gotten some better, but has never seemed entirely himself, and that in the early part of November he had another acute attack, and that on the 21st day of November, on the morning of that day--

A. Just wait a moment,--may I interrupt you--if he had an acute attack in July and another in November, it had become chronic.

+++++After softening of the brain becomes chronic is a man then in condition to make a will and transact business of that importance?

A. I am not able to state an opinion on that at this time.

Q. Assuming as I have before stated, that S. S. Slomp had softening of the brain, and that he had an acute attack in July, 1905, and had then gotten somewhat better but had never seemed entirely himself, and that he had had another acute attack early in November, and that on the morning of the 21st a man to whom he owed some money went to him and asked him for a dollar, and that he handed to this man a five dollar bill; that thereupon the man told him that this is a five dollar bill and not a one dollar bill, and that thereupon Bass Slomp broke down and cried, and said "you're trying to make out that I have no sense", or words to that effect; and that thereupon his wife was called into the room, and that she then assured him that it was a five dollar bill, and that he, Bass Slomp, again replied that they were trying to make him out like he had no sense, or words to that effect, and that the wife then told the man to take the five dollar bill just to satis-

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page 72: Gen'l conversation between
the persons there indicated something
was wrong

fy Mr. Slomp, and that she would charge it on his account. Assuming the truth of the facts set forth in the above question, would you say that he on that day was in condition to make a will?

A. No, sir. (Pages 67-68)

+++++

Q. I will ask you whether if a man had a disease known as syphilis in his youth, that would, or would not have a tendency to make him have softening of the brain in his old age?

A. It would unless he was properly treated, at the time he had the original disease.

Q. Is it possible to treat a man properly for that disease while he is in service in the army, and remains in active service in the army?

A. +++I do not suppose it was at that time. (Page 73)

Q. Would kidney trouble, or some forms of kidney trouble have a tendency to produce softening of the brain, or accompany softening of the brain?

A. Yes, sir, produce it. (Page 74)

Will Coomer.

page 77

Q.++++At the time you rented what was the condition of his mind?

A. 'peared like his mind was wrong. Maybe talking all right a few minutes, and then in the next few minutes would be off on to something else. 'peared like he was forgetful or something that way. (Page 78)

Q. Tell what occurred that morning? will was made?

A. Well, I asked him for a dollar to buy some bacon with. I reckon he thought he was giving me a dollar and he gave me five dollars. I showed it to him and told him that it was a five dollar bill. He commenced crying and said he wasn't wild--he know'd what he was doing. I told his wife, and she tried to make him see, and he said me and her narry one didn't know anything;

Full will
was made
10.2.1901
before

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She then asked me to take the five dollars to satisfy him, and I took the five dollars and she charged it on the books to me.

(Pages 78-79)

Q. Did he ask you to go after anyone on that morning, if so who?

A. Yes, sir, I went after Mr. Clark.

Q. You mean, Mr. Marion Clarkston?

A. Yes, sir.

Q. When you come back did you see Bass Slemp?

A. Yes, sir, when I come back he asked me ~~if~~ did I get them fellars off of the train?

Q. And what did you tell him?

A. I told him, no, sir, I hadn't went after any fellars on the train--that I went out to Mr. Clarkston's and then he said "Oh, yes."

Q. Mr. Coomer, from what you saw of him on that day, do you or not think he was in proper mental condition to make a will and transact other important business?

A. I don't say he was crazy, or anything of that kind. 'Peared like w was forgitful,--be talking with good sense on one thing, and then jump right off onto something else;--peared like he would forgit.

Q. In you judgment did he on that day have sense enough to make a will and transact other important business?

Objection.

Q. Whether or not on that day it seemed he had sense enough to make a will and transact other important business?

A. 'Peared like his mind was not good. (Pages 79-80)

Q. Did he ever say anything to you about being dissatisfied with his will after it was made, and if so, state what it was?

A. He said he wanted to will Mrs. Wampler a hundred dollars. (Page 80)

+++++

Q. To refresh your recollection, I will ask you if he said anyone had made it to suit themselves, and if so, what did he say about this?

1
p88 since in bed after wheat thrashing
time in 1905

A. He said Velerie and them fellars made it so suit themselves. He didn't say what fellars. (Page 81)

Q. Now, you have said in answer to one of Mr. Irvine's question that his condition seemed worse after he made his will than before; I will ask you how his condition seemed the very day that he made his will?

A. Well, 'peared like he was forgetful, called things 'peared like was wrong. Just as I tell you about, he asked me did I get them fellars off of the train? What fellows? You know, the fellow you went after. I says, "I went after Mr. Clarkston". He says, Oh, yes, I see now". I never said he was crazy. Never saw a crazy man--w ouldn't know. (Page 95)

Q. Well, on that very day, was his condition better or worse than it had been, or than it was after that time?

A. Well, I don't know that it was. ++++++

Q. Was it any better than it was after that time?

A. Well, I don't know that it was. (Page 95)

Q. When he went away from home, state whether or not Mrs. Slomp took any precaution to have anyone go with him or not, and if so, who?

A. Yes, sir, when she could get anybody, she would get somebody to go. I went with him several times, and my brother went with him several times.

p98 Went down to bridge to see how were getting
along on new line of railroad

W? A. Ward. p101

Q. Did you notice any change in his mental condition, several years prior to his death, and if so, state about how long before his death you did notice a change in him?

A. Well, sir, I think about three years before his death I could tell a difference in his talk--in conversation with him.

Q. State whether or not he seemed to get better or worse

p102

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from the first time you noticed this change on up to the time of his death?

A. Why, he seemed to be worse at times.

Q. State what was peculiar in his talk that would attract your attention?

*p102
Faced
1908*
A. Why, I don't know that I could tell you particularly now, more than I went there once to buy a cow of him, and we went out into his cow lot, and I picked out the cow I wanted to buy and asked him a price on it. He says, "I don't know--he says she is a mighty good cow. He says, "I forgot everything last fall that I ever know'd, and have never know'd anything since. (Page 102).

Q. Do you remember going over to rent some wheat land from him the fall before he died?

*p111
Fall
1908*
A. Yes, sir. I remember him sending for me to come over-- he wanted to rent to me, and I went over and he seemed to be-- his mind seemed so we didn't trade at that time, and I went back and traded with him after that.

Q. At that time, state how he talked +++++

A. Well, while I talked with him his mind seemed to come and go--talk about different things, but I never was with him long at a time, and I couldn't state how his mind was the day through. Wasn't there with him all day. (Page 103)

Q. Whenever, after that time, you were talking with him for any length of time, would his mind seem to go off onto something else you were not talking about?

A. Yes, sir. (Pages 103-104)

Q. Mr. Ward, you said that you had wheat sown on his place at the time of his death. When did you rent that wheat land?

A. Had rented it that fall. I rented it of his wife. (Page 111)

Q. If you talked to him for any length of time he would get flighty, is that what I understand you to say?

A. Yes, sir.

change in him going back for 3 yrs

Q. Mr. Irvine has asked you to state what particular talks you had with him in which he seemed to be flighty as you have spoken of, and you have stated about three different occasions, can you remember a number of other occasions without being able to state just exactly what passed between you? What I want to get at it were those three times the only times that you noticed him flighty?

A. No, sir, I noticed him before that, but I can't remember what we was talking about.

Q. What I want to know is whether or not you noticed him flighty on numerous times besides those three?

A. Yes, sir, I noticed his mind wrong several times before there. Seemed to me he talked flighty. Don't know ~~just what~~ about his mind--reckon it was his mind. (Page 112)

H. C. T. Reasor.

P113

Q. When was that?

A. I couldn't state what year it was in, I know it was j st about a year before he died.

Q. What was his mental condition at that time?

A. Well, I couldn't hardly explain it. It seemed to me that he was a little bit strange some way.

Q. What did he do which indicated to you that he was not right?

P113
A. Well, he didn't do anything. He would talk like he always did in his right mind--talk may be for two or three minutes sensible as he ever did--probably quit talking then unless you asked him something or other--may be talkt about something else.

Q. You say he would talk three or four words sensible and then change off?

A. Yes, sir, somewhere along there.

Q. Would what he would change off on to have any connection with what he had previpusly been talking about?

A. No, sir. (Pages 113-114).

(after he had been trying to buy some hay from Mr. Slemp)

Q. Why did you get up and leave?

A. Well, I thought he was not capable of making any trade-- something was wrong, and I did'nt try to buy nothing from a man talked that way. (Page 114)

Q. Did you think him capable of attending to business at that time?

1905 Fall A. Well, I didn't think so--reason I didn't say anything more to him about the hay. (Page 114)

1906 Q. From the Fall of the year before he died up to the time of his death, did you ever see him when he appeared to be his right self?

A. Well, I don't think I did. (Page 115)

Q. You have said that on the occasion when you spoke about buying the hay, Mr. Slemp made no answer for some time--how did he seem on that occasion? Did he seem to be in a stupor ~~or~~ or not?

A. Seemed to be in a kind of stupor--just sitting about not paying any attention much to anything, or anybody.

Q. How did he seem on the Sunday evening the first visit you made, with reference to whether he was in a stupor~~x~~ or not?

A. Well, he seemed that way then. Seemed not to want to talk much. Sometimes talked a few words very sensible--seemed like studying about something, then go to talking may be about something else. (Page 119)

Q. You never noticed anything wrong with him when you met him out did you?

A. Well it seemed to me like the last year or two before he died, seemed to be a little wrong some way, was not like he always was. (Page ~~119~~ 120)

E. S. Stout.

Q. Please state what appeared to be the condition of Mr. Slemp's mind the last year you assessed him?

A. Well, I don't know that I could state that question. The two last years I assessed him he did not seem to have the business qualities about him that he did the first four years I assessed him. (Page 2)

+++++

Q. Then, if I understand you, he seemed to be incapable of keeping his mind on his business, the business you were transacting with him?

A. I couldn't state that.

Q. Did he keep it on such business?

A. Not at the time I assessed him, he didn't all the time.

See page 23 Young depo for foundation of XX

C. D. Bailey.

Q. I read to you from the deposition of Mr. Harvey Young, taken in these cases at the office of Irvine & Morison on the 28th day of August, 1908, as follows,--page 6--in answer to the following question from counsel--"What condition of mind did you find Mr. S. S. Slemp in when you did go to write his will?" to which he made the following answer: I did not see any difference in his mind then.

On page 9 of said deposition his counsel asked him the following question. "State the condition of his mind during this discussion?" to which he made the following answer: "I saw no change in his mind whatever, during the whole affair. I have drawn several wills and he seemed to act in--well there was as little excitement about his mind as any man I had ever drawn a will for". And on page 10 of said deposition his counsel asked him the following question--"Did his mind on that day seem to wander and did he become forgetful at times or not?", to which he made the following answer: --

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"No, sir; I did not see anything at all. Very often in writing a will I would write one and have to make changes and get new paper but we did not have to do this at any time."

I have asked you, if in this conversation with Mr. Young ^{to} his statements you ~~is~~ about the transaction and about Mr. Slemp's condition conformed to the answers which I have read from the deposition?

(After objection witness answered)

A. I do not consider that his statement to me does conform with that.

+++++I simply asked him what condition of mind Mr. Slemp's was, and he answered me that he was fully at himself on business questions, but did not seem to be at himself on other questions.
(Pages 4 and 5)

Q. Then, if I understand you, when you had this conversation with Mr. Young, he told you in substance that he thought Mr. Slemp was at himself and capable of making his will, but that with reference to other matters on that same day and time, he did not seem to be at himself and his mind was not in good condition?

A. That is exactly the statement he made. (Page 5).

Q. Did Mr. Slemp's mind seem entirely clear on that day?
(Meaning the day on which he paid his taxes at Olinger)

A. I thought it was a little wrong--thought he had been drinking a little. I did not think he was fully at himself. He was rather slow about his matters. He looked very red, and that, I thought, a little redder than common, and I just came to the conclusion that he was a little out of his mind.

W. A. Ward.

pp 9
In this deposition he recalls other times in addition to the three mentioned in his former deposition, at which times he had conversations with Mr. Slemp, and Mr. Slemp did not seem to be right--that is, he was flighty and could not keep mind on ~~such~~ subject

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in hand, forgetfulness &c.

A. Sometime after that I come here along about corn cutting time and wanted him to go up to the field with me to divide it. He got half the fodder--part of it was cut and part wasn't. He started out with me and my boy and Alf. Just before we got to the field, he asked me who it was before us, and I said it was my boy and Alf, and he said "such as this scares me", and I said "Let us go back to the house" and we went back?

Q. Alf Slemo to which you refer is his brother Alfred Slemo, one of the defendants in this suit, is it not?

A. It is this man right here (pointing behind him in the door)

Q. It is his brother is it not. I just want to get it in the record?

A. Yes, sir. (Page 9)

With reference to character of Will Coomer for truth and veracity.

Q. Have you ever known his reputation for telling the truth being questioned before the institution of this suit, and before he gave his deposition therein?

A. No, sir, I don't know that I do. (Page 10)

Mrs. Valere Davis.

Q. Did you or not during the last eighteen months of the life of S. S. Slemo see him do anything that indicated to you that his mind was not entirely clear?

A. Sometimes I did.

Q. Please state any of these things that you saw him do?

A. When we left any water in the wash pan he would go and drink it, if we did not throw it out.

Q. Would that be water that someone had washed in?

A. Where we would wash our hands.

Q. How long before he died did he do a thing like this?

A. Something under a year I guess, I don't know how long.

(Page 13)

+++++

Q. Do you remember any other things he would do?

A. He would just call people's names wrong and forgetful. But he would know them, but seemed like he couldn't call their names.

Q. People he did know, he couldn't call their names?

A. Yes, sir. (Page 13)

Q. Around the house and at the table would he seem to forget, or not understand things at times that you would ask him about?

A. Sometimes he would ask for something that was not on the table, when he had those spells on him. He was not that way all the time. (Page 14)

Q. You mean he was sick from July until November when he died, after the will was made?

A. Yes, he was sick about eighteen months. (Page 14)

Q. You say he was sick about eighteen months before he died?

A. Yes, sir.

Q. How was he taken?

A. His head swimming and throwing up.

Q. Then he did not have these forgetful spells you spoke of from the time he was first taken in July until he died?

A. Seemed like he did. He was sort of taken out of his head or something like that. But he got better. (Page 14)

Q. Do you or not remember whether Mr. Slomp had been pretty sick for some little time before the day he made his will?

A. He was taken in July and he made his will that Fall.

(Page 15)

Q. How was Mr. Slomp's mind at the time Mrs. Slomp was operated on?

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A. It seemed like right along at the start it got a little bad, that is, before the operating, talking about it frightened him a little bit, but after that it got all right.

Q. The day of the operation, how was his mind?

A. It was not very good that day.

Q. Did he not talk to Mrs. Slemp and others present about the operation in a sane and straightforward way?

A. That day?

Q. Yes.

A. He was not about the house much. He was bothered, skeered.

(Pages 18-19)

Q? Did you talk to him about any business matters on the day he was operated on?

A. I don't know.

Q. You don't remember any particular business do you, that you talked to him about on that day?

A. No, sir. Seemed like he was just bothered, and---

Q. As a matter of fact, on account of the trouble with his wife, was not that one of his worst days, the day she was operated on?

A. Yes, sir. (Page 19)

(With reference to the table containing deeds, will &c.)

Q. Did Mr. Alfred Slemp seem to be very anxious to look after that table and the papers that were in it?

A. Yes, sir, he looked after it.

Q. Did you ever see him get any papers out of it?

A. Seemed like--I don't know as I ever did.

Q. Who generally looked after the papers, Mr. Slemp or Mrs. Slemp?

A. Why, Mrs. Slemp generally did. (Pages 19&20)

++++++

Q. Give the names of those, as nearly as you can recollect,

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that said here most of the time during that last sickness?

A. Alf Slemp--several--I couldn't tell you--it has been so long

Q. During his last sickness that you have referred to from Saturday until Thursday, before he died, did you see anybody get any papers out of this little table?

A. No, sir.

Q. Did you see anybody get any out after he died?

A. No, sir, not that I know of.

Q. What is your best recollection about that?

A. Seemed to me, I was skeered so the night that he died-- Aunt Leary came in here and got something, seemed like she got some of the papers out of the table.

++++++You thought these were papers connected with the will and deeds?

A. Yes, I thought it. (Page 20)

Rial Lawson.

Q. Please state what the transaction was you had with him?

A. Hamilton said that he had bought a heifer of him, and that he was to have her weighed at the Tannery Scales; but as they came on they wanted to weigh her at the Gilly Scale's. They did weigh her at the Gilly Scales, and when they come on had her re-weighed at the Tannery Scales; there was some difference in the weights at the Tannery Scales and Gilly Scales. After that I went to Slemp to pay for the heifer.

Q. Where did you go to pay for the heifer?

A. I went to Slemp's. I went in and saw him. I seen he was not at himself as he was usually and I waited until someone came in--until a witness come in before I would pay him. (This was in October or November, 1905)

Q. What appeared to be the condition of Mr. Slemp's mind on this occasion?

11-2-12
1905
Oct
1-11-12
Nov

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A. He did not seem to me to be capable of business at all.

Q. From what did you draw that conclusion?

A. Well, from his maneuvers and talk.

Q. Please give the character of his maneuvers and talk?

A. Well, he would sit like he was going to have a conversation, then he would get up and go over the room--back and forth--acting "quare"; going first one place and then another--then sit down and commence talking again--he would talk about his sickness--

Q. Did he or not seem to be able to keep his mind on the business in hand?

A. No, sir, he did not.

Q. Please state fully the whole transaction with him there that day and what occurred?

A. When I went there to pay him, I thought it best from his talk and maneuvers not to pay him until some one came in and see me pay him. I waited until this man came in--Coomer, I believe, I believe it was Lee Coomer. Soon as he come in I mentioned about paying for the heifer and went on a paid him for the heifer. ++++++after we came out I was sitting talkin with him and he called on me for the balance of the money? He says, aint you going to pay the balance now? Why, I said, I paid you all that was due you, my recollection was \$17.50++++++he called his wife to bring the money in there if she hadn't put it with the other money--it was to itself, and she brought it in and it was all there. I said to him then, sack of ~~salt~~ salt may be you was thinking about. He said "Yes, that was it, I know'd there was something else about it."

When asked whether he talked rationally about other subjects, the witness stated that he did not talk right about anything.

H. C. T. Reasor.

Mr. Reasor's deposition was taken to prove the character of Will Coomer with reference to truthfulness &c.

125
76
77
128

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He states that he was raised up in that neighborhood and has known Coomer ever since they were boys, and have always lived in the same neighborhood, and that the said Coomer stands fairly well and that he don't know anything at all against him that he couldn't give him full credit as a witness, that he would give his evidence full weight as far as that concerned it. He states that he had never heard his reputation for truth and veracity questioned before the bringing of this suit.

L. M. Wade.

Has known Mr. Slemp ever since he was big enough to notice any of the boys, and lives now and has for sometime within

Nov / three miles of where Mr. Slemp lived during his lifetime.

1905 He was present at Olinger on the day of the tax paying referred to in other depositions, and says that he thought there was something wrong with Mr. Slemp--that he was not like he always was before. Witness stated that Mr. Slemp had told him before that time about having swimming of the head, but that he did not pay much attention to that as it was common with a heap of people. He says Mr. Slemp seemed a little flighty on that occasion. Stated that he had seen Mr. Slemp several times after that and sometimes he would seem all right and again he wouldn't.

also
page
7
Mr. Slemp asked him one time to see Charlie Flanary and see what was the least money he would take for his land in the Cove, and, also, stated that Bass at one time stated that he expected to let Alf and Hop have the land as it lay over next to them, or give it to them, at least that was impression made with him.

B. C. Jones.

108
Nov 1905
Mr. Jones was born and raised near Mr. Slemp and had known him all his life. He was the one who gave Mr. Slemp check to pay his taxes at Olinger, when the tax collector was there in October the year before Mr. Slemp died. He states that from his actions

there that day he thought there was something wrong with him. He had heard it rumored very often in the neighborhood that Bass had lost his mind. Also states that at another time shortly after this when he was hauling shucks, Bass came up to where they were loading, and from his actions and appearance on this occasion he thought there was something wrong with him, that he was not tight some way.

~~XXXXXXXXXX~~ J. T. Shuler.

Had known Mr. Slemp for something like twenty five years. He was over at Bass Slemp's house in the Fall the year before he died--there was some one plowing in the garden, and he asked Bass who it was,--he said he knew but couldn't think of his name. The man was Shim Ward, who rented land from him, and whom Slemp had known for years. He was there about four months afterwards, and states that the impression was that he was better at that time.

*1915
Fall
1905*
Depts witnesses
Harvey Young. *ppd to 25 line*

3 yrs before death Slemp wanted him to draw will
Had known S. S. Slemp in his life time--lived about four miles from him. Saw him every year from the time he first knew him to the time of his death. He went to Mr. Slemp's house the year before he died and wrote his will for him. Says that Slemp wanted to make his will leaving the Barkers out, that he told him this about two years before he made his will. He was called to Slemp's House for the purpose of writing will and deeds disposing of the property. He was at the house from about 9 o'clock in the morning to four o'clock in the afternoon; that they were talking most all of the time about the way to make the will, deeds, &c. and that he did not see any change in Mr. Slemp's condition during the whole time;--that in fact there was as little excitement about the matter, as in any case where he had ever drawn a will before. He says that after the will and deeds were written

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either Mr. Slomp or Mr. Clarkston, who was also present at the time, handed the will and deeds to Mrs. Valerie Slomp. He also states that Mrs. Slomp was not in the room during the whole time, but that she may have come to the door. He states that Mr. Slomp talked very rational all of the time. That Slomp wanted Hop and Alf to have the 180 acre tract--that it was his intention to let them have it when he bought it, for they had always been so good about helping him when he needed help, and that he could always know that the work was being done well and as he would have done it when they did work for him. He says that Mr. Slomp was worried a good deal about just how to make the will in regard to his wife--that he wanted her to be satisfied. He states that before the will was written Bass said he wanted to give Mrs. Wampler \$100.00, but that when they come to write the will he said he had changed his mind about that, and would not give her anything. He says the deeds and will were read over to Mr. Slomp, he thinks, twice after they were written before being signed up by himself and the witnesses. He states that he does not recollect of having any conversation at any time with Charlie Bailey in which he told him that Bass was all right so far as making the deeds ~~xxx~~ was concerned, but that he was all off on other matters.

pp 23

Dr. Gilmer. (Axley)

pp 26

Dr. Gilmer states that he attended Mr. Slomp from November 4, 1905, until his death. That he visited him on the 4th, 8th and 16th of November; that on the 4th he was complaining of swimming of the head and some slight tingling in arms and neck, that his mental condition was fairly good, except for weakness of memory--inability to remember names off hand was the main trouble--that on the 8th, his absence of memory was more noticeable, but that on his third trip he found him much better than on the first two.

B 36
diagnosis came
as chronic
of the brain

On this visit he talked to Mr. Slomp about buying a pice of land adjoining the Gilmer place, in Turkey Cove, of about nine acres. He states that he regarded Slomp as mentally capable of making a trade for the land on that day, if he would have sold the land. He told Gilmer, however, if he ever did sell it he would let them have it. Dr. Gilmer states that he regarded him as capable of making a will and disposing of his property on November 16th. He visited Mr. Slomp again on December 2nd, and could see no change in his mental condition, and that he would have regarded him capable of making a will and disposing of his property on the 2nd of December. (It was between these two dates that he had made his will, &c.) States that mental condition remained about the same for the next three months after December 2nd, 1905, and that he did not begin to grow appreciably worse until about the middle of September, 1906. He states that during the Summer of 1906, Mr. Slomp could not at times ~~remember~~ ^{and} names ~~of~~ places, but that in talking about his hogs, cattle, land &c. he always talked with good sense about that. States that you could notice a slight defect in his memory on the day they operated on his wife. He says that Mr. Slomp's trouble was chronic softening of the brain. He says that even if the trouble began something like a year before,--that he would be troubled with lapse of memory, head swimming &c. at intervals every few weeks, and had a more serious spell in July or August,--yet he did not think it would render him incapable of sound mind, and disposing memory. Dr. Gilmer inquired as to whether Mr. Slomp had ever had syphilis or gonorrhea, and found that he had had gonorrhea but had never had syphilis. That in his treatment for softening of the brain he never got any results which would indicate that he had a syphilitic tendency, and that he did not believe he ever had it. Dr. says he does not think Kidney trouble alone would bring on softening of the brain.

"Q. Do you think he was sufficiently at himself on the 4th and 8th to make a land trade with you?

A. Well, from my own standpoint at the time I did not feel like talking to him about it.

Q. Well, you did not think he was in condition to trade land on those dates?

A. Not entirely so. (Page 48)

He says that if Mr. Slemp did the way related by Will Coomer on the morning he made his will, he would not think him in condition to make a land trade. He states that there was a gradual progress in the disease from the time he first attended him up to the time of his death." (Page 49) He states that if the facts as related by Mr. Young are true, he believes that Mr. Slemp could have disposed of his property all right. He states that it would be a somewhat unusual thing for a man to change so completely as indicated by the evidence of Coomer and Young. Also states that if Mr. Slemp talked foolishly about one thing one minute, and then in the next be talking seemingly all right, he would not think he was exactly a man of the right mind to do business.

(55)

John Gilly. 956

Has Known Slemp ever since he was a boy. That he bought Slemp's cattle in 1905, and his mental condition seemed to be all right. He states that Mr. Slemp was up to see him about when he wanted the cattle weighed, in the fall of 1905, and when they got through talking Slemp told him he wanted to go over to Polk Barron's; he said he had a due bill and he wanted to let Mr. Barroff know that he had it. His mind seemed to be in good condition on that occasion. He told Mr. Slemp that he could go over by the Spring to Mr. Barron's and Slemp went off in that direction. He states that Mr. Slemp knew business when you talked with him, and that you could trade with him right on up to a month before he died.

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He had talked with Mr. Slemp about disposing of his property, and he had always said he wanted his wife to have plenty, and that he meant to deed his land to his four full brothers. He says that from what he has heard about will and deeds, Mr. Slemp disposed of his property as he had always told him that he would do. He states that Mrs. Slemp generally made calculations for them in their trades. He states that he was over there when Bales bought Slemp's cattle the summer before Mr. Slemp died, and that Bales did the trading with Bass's wife. He says he did not think Bass was in condition at that time to make trade.

Q. Do you know Will Coomer's reputation for truth and veracity among those people?

A. Yes, sir, he was not much good.

Q. Judging him from that reputation would you give him full faith and credit on oath?

A. No, sir; I couldn't think so. He sold his vote and a man who sells his vote, I could not give him much credit for anything.

(Page 69)

Gilley says there was a great deal of talk at the time Slemp died as to whether his will would stand. He states that Mr. Clarkston said that Bass Slemp did the writing of his will &c. Also says there was a good deal of talk the summer before he died as to whether will would stand.

W. S. Coldiron.

Had lived in a mile and a quarter of S. S. Slemp since 1889. In the early fall of 1905 he heard that Bass Slemp was smick and went over to see him, and found the trouble was that while hauling a load of oats the sled went down into a ditch and threw the oats off, and Slemp too, the first place Bass struck was the back of his neck, between the shoulders and shook him up pretty bad. He seemed to know aeverything as well as he ever did

a¹ this time, and he did not notice any lapse of memory. He did not detect anything wrong until up in the winter he noticed that his memory was bad. He says he thinks Slemp, from what he knew about everything, was in his right mind at the time the will was made. He says that Slemp went by himself to the polls to vote in 1906.

"Q. Now from that time on (meaning from the early part of the winter of 1905), you do not think he was capable of transacting business?

A. I do not know about that; he might have been, or he might not. I know one thing, if I were going to do business with him and he had offered a thing to me for any less than what it was worth I would not have taken it.

Q. You would have been afraid the trade would have been upset?

A. Yes, and I naturally would not have wanted the reflection"
(Page 80)

Mr. Coldiron also states that Will Coomer's reputation for truth and veracity is not very good. (81-82).

"Q. Judging from that reputation, could you give him on oath full faith and credit?

A. Well, that depends on circumstances. In some cases I might and in others I might not. I look at anything like that in this way: In a case where a man is directly interested he might not give him full credit, but in a case where there is no interest to him whatever, he might swear the truth." (Page 82)

John J. Reasor.

Has known Bass Slemp all his life; lives something like a half or three quarters of a mile from him. Had a transaction with

him about fourteen months before he died and did not detect anything wrong with him.

J. B. F. Olinger.

Thirty six years old, and has known Bass Slemp all his life, lived about two miles from him during the last few years of his life . He was at Mr. Slemp's in 1905, when Mr. Slemp was sick, but says there did not seem to be anything wrong with his mind. He was there the next Spring about renting some pasture and did not detect anything wrong with Mr. Slemp's mind then. He saw Slemp several times off and on for from six to twelve months while he was complaining, but says he did not see anything wrong with his mind--more than he did not talk as much as formerly. He hardly thinks that he could give Will Coomer's evidence full credit. He had heard some talk from wheat threshing time up to the time of Slemp's death, about him having lost his mind to some extent.

Jonathan Ward. *p97*

Age 64 years. Has known Slemp from boyhood--school mates. Lived about half a mile from him during the last year or two of his life. Never discovered anything wrong with Bass until the day his wife was operated on;--seemed a little duncy that day. Saw him in March and did not see anything wrong with his talk. (That was March after the will was made). He has heard a number say that Will Coomer is an awful liar, and, also, that he sells his vote

page 115 Bass said wanted to change will in Dec. 1905
F. M. Clarkston.

105-128
Mr. Clarkston was sent for to attest the will of S. S. Slemp.

He went over to Bass's and found Harvey Young there. He says that Slemp told him he had not felt the swimmin g of the head since Saturday the week before. Says that Bass wanted Alf and Hop to have the Wes Slemp place of 180 acres. He wanted Alf to have the Charlie Flanary land and his wife to have 33 acres out of the home place. He says that Bass said he had thought of giveing Mrs. Wampler \$100.00, but later decided not to do it, as he had so many other expenses in the way of doctor bills &

Says that Slemp talked rationally about his land, the number of pieces , boundaries, etc. He says he advised Bass to deliver the deeds to the parties at once if he meant for them to stand. He says Bass sat for awhile, and then handed the papers to his wife, but he does not remember what he told her to do with them. He says he was over at Mr. Slemp's house a night or two before Bass died, and Mrs. Slemp got these papers and gave them to Dave, to the best of his recollection,. The first time he ever noticed anything wrong with Bass Slemp's memory was sometime during the Summer of 1906. He thought Mr. Slemp was capable of makin a valid disposition of his property at the time he made the will. He states that Mrs. Slemp was in the room while the different plans of disposing of his property were being disaussed, but that when everything was agreed upon she passed out of the room. He cannot remember whether Mrs. Slemp was present when they were writing the deeds or not. He had talked with Bass some time before, and Bass had said he would fix his property so Barker would't get anything out of it.

"A. Well, sir, I would have to state that I never seen anything wrong out of the man up to the time I spoke of in the summ er, about August or September; nor that I could detect. I heard it reported , of course, that some said he was paralyzed; some would say one thing and some another, but I did not notice it myslef." (Page 116.) He says that Will Coomer's reputation for truth and veracity was bad.

"Q. And then he took the papers, that is, the will and the two deeds, and gave them to his wife and said put them away; is that correct?

A. Yes, sir, he handed them to his wife and told her to put them away, or words to that effect. (Page 119-120.

Q. His wife was in the habit of keeping all of his business papers; was she not?

A. I believe she atteneded to his business. (Page 120)

"Q. He died, I believe you stated, about midnight on Tuesday of November 22nd, is that correct?

A. Just after midnight.

Q. And these deeds were gotten by Mrs. Slomp there on that night, and delivered to Dave Slomp; is that correct?

A. She went out and got a paper, she said was the deed or deeds-- I would not state positively whether it was one or two--and she wanted him to take charge of them. That is my remembrance. I think it was Dave Slomp that she gave the deeds to; I could not be positive as to that.

Did she also get the will?

A. I think so." (Page 122)

Q. Did not Bass Slomp on the day that he made his will seem more or less heart-broken?

A. At one time he wept a little bit. He said that he wanted Alf and Hop to have that land over there and he had been talking to them about it, and he aimed for them to say how they wanted him to divide it, and he said every time I name it to them they walk off; and then he broke down and cried. His feelings were hurt. And, he said, that when he recovered, that I will just have to fix it the best I can. (Page 127)

W. M. Slemp.

Had known S. S. Slemp intimately up until the last year of his life. He was at Mr. Slemp's house on the day he made his will and says that he regarded Mr. Slemp as entirely capable of transacting any kind of business. He does not remember if Dr. Edmonds said anything to him about Mr. Slemp not being capable of making his will, &c.

P. M. Reasor.

A first cousin to S. S. Slemp, and had been intimate with him during the whole of his life time. He states that it was something like a year may be not quite so long that Bass became puny before he died. He had had business dealings with Mr. Slemp during the last years of his life, and says that Bass is a man who always looked closely after his business affairs. He had heard Bass say that John Barker and his family would never get anything he had. He had never noticed Mr. Slemp being flighty or forgetful in his dealings with him.

Dr. George C. Gilmer.

Had been practicing medicine in Turkey Cove since 1876 with the exception of about three years. He attended Bass Slemp in the Spring of 1903, and says it seemed to be something like Grippe that troubled him mostly. He told Dr. Gilmer that he wanted whatever he left his wife fixed so she could do what she pleased with it. Slemp told Gilmer that Alf, Dave, Hop and John had been mighty good to him, and the witness thinks he said he was going to give Alf and Hop the Wes Slemp tract, but he is not right certain about that. He was not called to visit Mr. Slemp professionally again until about July or August, 1905. At this visit he noticed that Mr. Skemp's memory was not very good about calling names and such as that. "Thick tngued!"

He did not diagnose Mr. Slemp's case as softening of the brain in any form. He saw Mr. Slemp once after he moved to Big Stone Gap, either in December, 1905, or first of January, 1906. He wanted to get Slemp to loan him some money on a \$1,000.00 note which he, Gilmer, held against Hugh Slemp. He says that Bass seemed to be all right, and he regarded him as entirely capable of transacting business on that day. He says he also talked to Slemp a short time before he moved to Big Stone Gap about buying a pice of Bass' land, adjoining his farm, and that he thought Slemp was entirely competent to trade at that time. He assisted Dr. J. A. Gilmer and others in operating on Mrs. Slemp, and says he noticed no material change in Bass on that day.

John Gilly. *Page 37-91*

He was recalled to testify about the heifer trade between Bass Slemp and Lawson and Hamilton, which had been heretofore testified to by Rial Lawson. He says that there was a difference of \$3.50 , and Bass asked him to come up to see him about it. He says that Slemp seemed to be all right at that time. He says this was either September, 1905, or September, 1906, he cannot be sure as to the date.

John Slemp. *Page 37-91*

Brother of S. S. Slemp. He says he never saw nothing wrong with Bass until about two months before he died. He says that Bass's mental condition was all right the day they operated on his wife--only he was a little bothered about it. He says that he was over at Bass Slemp's house about two weeks after the deed was made, and Bass showed him the deed and he took it and kept it about ten days, but that he did not have any tables with drawers that would lock, nor any place to keep it, so he gave the deed back to Mrs. Slemp, as it was made to her and him and Dave, and he thought she had just as well keep it as either of them

Circuit Court of Lee Co.

S. M. Stampler, et al.

vs.

Alfred Blum, et al.

Deputy for complainants

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Ward's Contribution

121.

THE DEPOSITIONS of Joshua E. Hobbs and others taken before me, G. L. Taylor, a Notary Public, in and for the County of Wise, State of Virginia, pursuant to agreement, at the Office of Bullitt and Kelly, in the Town of Big Stone Gap, Virginia, to be read as evidence in two certain cases in Chancery pending in the Circuit Court of Lee County, Virginia, in one of which cases Florence Coomer and others are complainants and Alfred Slomp and T. H. Slomp are defendants, and in the other of which cases S. H. Wampler and others are complainants, and John Slomp and David Slomp are defendants; it being further agreed between counsel for the parties that any and all of the depositions which may be taken in either of the said cases may be read by either party subject to exceptions for relevancy and competency in a certain law action pending in the said Circuit Court of Lee County, wherein S. Melvina Wampler and others are plaintiffs and F. T. Riddle and others are defendants, in case any of the witnesses who may give any such deposition may not be present at the trial of the said last named case.

Present, J. F. Bullitt and Jno. W. Chalkley, Attorneys for complainants, and R. T. Irvine, of Counsel for defendants.

Joshua E. Hobbs, a witness of lawful age, being first duly sworn, deposes as follows:

Q. State your age, residence and occupation?

A. Well, Sir, I will be seventy three years old the first day of next December, according to what my mother told me; Farmer by occupation.

Q. Where do you live?

A. About a mile South of Dryden.

Q. Were you acquainted with S. H. Slomp in his life time?

1. I was in the early days of his life--some two, three or four years.

Q. Where did you know him?

A. He belonged to the Army, the same regiment I belonged to.

Q. How long did you and he both belong to the same regiment?

A. Well, sir, I couldn't tell you. I belonged four years--

Don't remember whether he went in as early as I did or not.

Good deal younger man than I was--he didn't belong to my company.

Q. What was your position with the regiment?

A. I was captain.

Q. Did you have anything to do with the hospital service?

A. I did a short time-- a few days.

Q. What position did you hold in the hospital service?

A. I was left in charge of the convalescent.

Q. State whether S. S. Slomp came into the hospital while you were in command?

A. My recollection is that he was in there at the time I was in command. Couldn't say what time he come in--at the time I was in command, or before, or what time.

Q. State what was the matter with him?

A. I couldn't do that, sir. I could only state what was reported--

Q. Did you as commander of the hospital get reports from the Doctors as to the trouble of the different people?

A. I did as to some cases--but there was no cases specified, who and who was sick with so and so. There was about four hundred or a little over four hundred reported in the hospital division when I was there that had the clap and poc--few over four hundred --pretty rotten thing.

Q. Was S. S. Slomp reported?

A. Well, sir, I couldn't tell you--it was said that that was his trouble.

Above question and answer objected to by Mr. Irvine, as hearsay and incompetent.

A. It has been so long ago--it might have been named--

Q. State who said it to be?

A. It was just stated in the reports that there were so many-- and their diseases.

Question and answer objected to by Mr. Irvine, because hearsay, irrelevant and immaterial.

Q. What I want to know is whether the Doctor reported S. S. Slomp as having a certain disease?

A. I couldn't say that they did. It was said by some of the nurses that that was his trouble.

Objected to by Mr. Irvine, because hearsay and irrelevant.

Q. What disease did they say he had?

A. Said he had poc all I know.

Question and answer objected to by Mr. Irvine because hearsay.

Q. How long was he sick?

A. I couldn't tell you that. It has been a good long while ago, and I couldn't tell you anything about it.

Q. Was he, or not, sick for some time after that?

A. It seems to me that he was a little puny a while--it seems to me that since that he was a little puny.

Q. For how long a time did he seem to be a little puny?

A. I couldn't tell you that.

Q. About how long?

A. Couldn't tell you that. Didn't think about it from that time on--didn't think about it ever coming up.

Q. From that time, on while you and he were in the same regiment, was he, or not, puny?

A. He was in the service at the time of the surrender-- I think to the best of my recollection that he was not in first class health--I don't know whether it was that or not--I could not say positively that it was--my recollection about it.

Q. How long before the surrender was it that he was sick?

A. Was not a great while.

Q. About how long?

A. Couldn't tell you that.

Q. Was it a month or two, or a year or two?

A. Don't think it was a year--wouldn't be positive about it.

Q. Did you see anything of S. S. Slomp during the last two or three years of his life?

A. I don't know--don't remember whether I did ~~xxx~~ or not. Don't think I did--Don't know--would not be positive about that.

Q. Didn't you on one occasion go to Mr. Slomp's house for the purpose of purchasing some cattle?

A. I can't answer--If I did it has slipped my memory--might have done it, but I don't have any recollection of it. Might be possible that I did--I couldn't state--couldn't make any statement.

Q. To refresh your recollection--did you not go with J. J. C. Flanery, of Dryden, to Mr. Slomp's house the same fall that he made his will, which was a year before his death, for the purpose of purchasing some cattle?

A. Well, sir, I can't say whether I did or not.

Q. Do you know what the condition of his mind was for two or three years before his death?

A. No, sir, I don't know personally.

Q. How far did you live from S. S. Slomp?

A. I guess it is about eight miles.

Q. How long have you lived there?

A. Almost my life time. Moved one time about three hundred yards from the place where they said I was born.

Q. State whether there was any general report through the country as to what his condition was?

Objected to by Mr. Irvine as incompetent.

A. I don't know whether there was a general report--I had heard it reported that his mind had failed him.

Q. How long before his death was it reported that his mind had failed him?

A. I guess two or three years may be--two or three. Had heard something said.

Cross-Examination by R. T. Irvine, of Counsel for Defendants.

Not waiving the exceptions in the foregoing direct examination for relevancy, defendants cross examine the witness :

Q. Captain what regiment were you in?

A. Sixty Fourth Virginia.

Q. What company was S. S. Slomp in?

A. Well, sir, I don't know--he was not in my company, I don't think. Don't think he was.

Q. Are you sure that he was in the same regiment?

A. W'y, I suppose he was in the same regiment--he was with us about all of the time. I couldn't state positively that he was in the same regiment--I know he was with us in our command--did not belong to our company I don't think. We had some Kentuck-

ians with us. He might have belonged to a Kentucky Regiment for all I know. It strikes me that he belonged to our regiment.

Q. Was your regiment under General Prentiss of Kentucky, at any time?

A. No--He was with us, I think, a little.

Q. He was with you occasionally?

A. Yes, sir.

Q. Was not Bass Slomp under Prentiss?

A. I couldn't tell you whether he was under Prentiss or not. Don't know what company he belonged to--didn't belong to mine. He belonged to the command--that is, he was with us a good part of the time himself--don't think he belonged to our company at all.

Q. As I understand your statement, Captain, you just have a general recollection that there was a good many cases of that kind in the Hospital?

A. Yes, sir, that was reported -

Q. And some of the nurses said that Bass Slomp had that disease?

A. Yes, sir. About all I remember. Don't know if he had it nothing about that.

Q. You didn't hear any of the Doctors say so?

A. Don't remember whether I did or not. As you know the rules of the army, he just made a report so and so sick and didn't name any persons--that reports I got.

Q. It was not a part of your business to go through the wards and see the men and see what their trouble was?

A. Not at all. I had something else to do.

Q. How many men were sick altogether in your hospital at

that period?

A. I couldn't tell you--there were reported about four hundred or a little over that had those two diseases.

Q. Did you have quite a number with other diseases or not?

A. Oh, yes sir, I guess so.

Q. It would be very hard for you to remember anything distinct about any one of those men?

A. Oh, yes--forty odd years ago would make it a hard thing to recollect any man without taking a note of it, and I didn't do that.

Q. Your recollection is that Glomp was a little puny for a while, but that he went on in the service to the end of the war?

A. Yes, sir, he went on in the service--I know he did.

Q. He then came home from the war and went to work on the farm?

A. I suppose so--he was a farmer after he came back.

Q. Is it not a fact that he worked harder and did more manual labor than any other man in his neighborhood?

A. It was said that he was a mighty hardworking man.

Q. He was a sober, moral man all of his life so far as you know?

A. Yes, sir, so far as I know--he was a good citizen.

Q. Did he have anything to start on, or did he make all his money himself?

A. I have heard that he commenced on pretty near nothing.

I couldn't say positively what he had--might have had a million dollars for all I know.

Q. You state that you couldn't say that it was generally reported that his mind was failing?

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Signature waived.

Also the deposition of Elkanah Pennington, another witness of lawful age, who being first duly sworn deposes and says:

Direct examination by Mr. Bullitt:

Q. State your age, residence and occupation?

A. Sixty one years, Dryden, Lee County, Virginia. Occupation Farmer.

Q. How long have you lived at Dryden?

A. Well, I have lived there for most fifty years.

Q. Were you acquainted with S. S. Slemp during his life time?

A. Yes, sir. Known him from a boy up.

Q. How far did he live from you?

A. I suppose about eight miles.

Q. Did you see anything of him in the last year or two of his life?

A. Well, I don't remember how late I met with him, or knew him--it strikes me that I hadn't been with him for a year or so.

Q. When was the last time that you had any dealings with him?

A. Well, I expect it was some five years ago probably. I can't recall the exact time.

Q. State what transaction you had with him--tell all about it?

A. Well, the last transaction I had with him, I believe was I bought some twenty odd head of cattle.

Q. Just tell all about that trade in your own way, Mr. Pennington?

A. Well, I will take a little round about way to get at it. I went up ~~to the house of Mr. Pruitt~~ with Mr. Pruitt, who lived in

Kentucky, to help him find some cattle in the Cove, and we went to Mr. Blamp's to look at his cattle. He was around about with us the greater part of the day--I believe we eat dinner at his house, and he was around with us looking at other cattle pretty much the whole day. They did not trade on the cattle, and late in the evening

when they parted they seemed to have had some little jower in talking about the cattle, and when we and Mr. Pruitt started off he called to me to come back and he put it to me to buy his cattle.

I said to him why can't you and Mr. Pruitt trade--there is just a little between you--Pruitt had offered him \$5.90 for his cattle and he wouldn't take less than four cents, and the other fellow had bid him goodbye and went on, and he called me back, and I proposed to him why not holler at this other fellow, and Mr. Blamp seemed to be a little hot, and said, no, he could not have his cattle at no price. He said he had ~~insulted~~ insulted him, said "He objected to me pasturing my cattle in the meadow" that he pastured his cattle where he choosed--he can't buy my cattle.

I don't know what all was said. He insisted that I buy his cattle.

I said, well, would I have to give you four cents--he says "yes, sir" so I bought them.

Q. Did you pay any money down on them?

A. I paid \$20.00 and took a receipt from him. At the time I was writing the receipt Elbert Flanary rode up--I wrote the receipt according to our contract, stating time to weigh and so on. I think Mr. Blamp said that was right, or at least he did not dispute it anyway. As it was getting very late--so I went on--cattle to be taken up between one date to another.

Q. What is you were to leave the cattle on his place for a certain time?

A. Yes, sir.

Q. Tell what occurred about the cattle after that?

A. Well, I was weighing Jimmie Collier's Cattle at John Gilley's and some of them said to me, I suppose they had heard that I had bought Bass's cattle--"I understand you are not going to get the Bass Slomp cattle?" I said, "Why not"--I think he had heard Bass say so, any way he had learned that I was not going to get the cattle.

Q. Did you see Slomp about the cattle?

A. On my way home I met him and I named it to him, that I would be up after the cattle in a few days, and he made rather strange, and said he was about selling them to another man, I says "Bass, I have bought your cattle and paid some on them". He did not seem to recollect the payment. I got the receipt which he gave me and read it to him. I said "I don't want to do anything wrong, but I have even sold your cattle", and then he studied a little, and said "Yes, I heard you had" I believe he said something about a man being too quick to sell or something of the sort. Spoke something about that I ought to wait until I got the cattle. I told him I had paid some on the cattle and Elbert Blenary witnessed the trade. I sold the cattle to Mr. Sales. Well he rather jowered with me a little. I says, "Can't afford to have any hard words about it." He says, "When will you be after the cattle" I told him I would be after them some day before my time was out, according to the receipt here, so I went on and we weighed the cattle.

Q. How long after you purchased the cattle was it that you met him and had this last talk with him you have spoken of?

A. Well, I have to make a rough guess at that, probably something like a month or six weeks.

Q. Well, what seemed to be the condition of his mind at that time?

A. Well, I don't know that I could say. It struck me that he was very forgetful, or wanted to do me a little wrong about the trade one. Seemed to get a little hot at me for insisting that I had bought his cattle; but when I read the receipt for the money and so on he seemed to get in a better humor, and seemed to get better satisfied about it.

Q. What was your final impression, that he had simply forgotten, or that he was trying to cheat you in the transaction.

Objected to by Mr. Irvine, because incompetent.

A. I thought that he had just overlooked it. Circumstances made me think that. If he had recollected, he would have known that I had a receipt for the money.

Q. You say that in talking about this other man--what is his name?

A. Pruitt.

Q. You say that in talking about Pruitt he said Pruitt had insulted him?

A. Well, I don't know. They did the most of their cattle talking out to one side.

Q. So far as you had seen, had he done anything to insult him?

A. No, sir. He told me that Pruitt told him that if he bought his cattle he could not graze them on his meadow. Bass was a little fiery, and says "By, God, I'll put my cattle where I damn please. He can't have my cattle."

Q. When you met him and talked to him about having purchased his cattle did he show any sign of temper, or look in a peculiar

wayway?

A. Well, I commenced, --I made very strange of his not knowing. He seemed to get hot at me when I began to talk to him.

Q. When he got hot how did his face appear?

A. Had little red face.

Q. Mr. Pennington what was the general report through the neighborhood as to the condition of Bass Slump's mind for two or three years before he died.

Objected to as incompetent by Mr. Irvine.

A. Well, I had occasionally heard people speak of Bass's mind being wrong and so on. Don't know as I could remember who talked it. I remember one fellow having a talk with me--that was Mr. John Rivers.

Q. Was it or not generally reported in the neighborhood for two or three years that his mind was wrong?

Objected to by Mr. Irvine.

A. Well, I had heard it occasionally talked.

Q. Did you see him on any other occasion than the one you have spoken of during the last two or three years of his life?

A. Well, I didn't see him. He was at home most generally. I didn't see him very often, at all--we were always good friends.

Q. From what you saw of him during the last two or three years of his life, what was your opinion as to the condition of his mind?

A. Well, I don't know that I had any particular made up opinion. I was not about him enough to form any special opinion.

Q. So far as you did form any opinion, what was that opinion.

Objected to by Mr. Irvine, because leading, and the witness having already stated that he had formed no special opinion.

A. I could only form an opinion from what I had heard other people say that Bass's mind was in bad shape.

Q. You saw something of him yourself. From what you saw of him and everything that occurred, what was your opinion as to the condition of his mind?

Objected to by Mr. Irvine.

A. Outside of this one time, as well as I remember, I did not see anything that made me think anything special wrong with his mind. Had heard that said too that it was on account of his ill health. Sometimes when a great many people are sick it affects their mind. As to his mind generally, I know but very little about it.

Q. What was the state of his health for two or three years before he died?

A. Well, I could not answer that, anything more than the report was through the country that Bass was in bad health a great while or something of the sort.

Cross-Examination by Mr. R. D. Irvine, of Counsel for Defendants.

Q. Mr. Pennington, you don't know but what Mr. Pruitt and Mr. Slomp did have some short words out of your hearing do you?

A. No, sir, I don't know as to that. They did not have any short words in my presence as I took notice to.

Q. Mr. Slomp was a shrewd good trader wasn't he?

A. I think he was always considered so. I traded with him a few times--he always held his own with me.

Q. He got his price the day you and Mr. Pruitt went there, and was too smart to take Mr. Pruitt's offer was he not?

A. He didn't take it.

Q. Mr. Pruitt objected as I understand, so he told you, , to his putting his cattle on the meadow grass if he bought them?

A. Yes, sir.

Q. What that means, as I understand it, if they put them on the meadow grass they would fill up unusually fast and weigh heavier.

A. Yes, sir, I suppose so.

Q. Mr. Blomp claimed the right to do that?

A. I did not hear anything said about this between the two men. Bass tells me, I said "let me call Pruitt back, there is but little between you. He says no, "No, damn him, he can't have my cattle. He says: "He has insulted me anyhow, and then told me that he had been talking to him overbearing about the cattle trade. Went on to say, "He has run my cattle down, and said I could not put them on my meadow after he bought them of me. I will let him know that I put my cattle where I damn please, and he can't buy my cattle, and you buy them," and I made up my mind to buy them.

Q. Well, didn't all that sound to you like a sane, shrewd man?

A. I couldn't see anything to the contrary. Seemed like he was going to get his price or keep them.

Q. The only thing that you have to base your idea of his mind being wandering on was that he forgot the trade afterwards?

A. Yes, sir, and then the country talk of his mind.

Q. Do you recall anybody that gave you this country talk except John Rivers?

A. Don't know that I could--things of that sort. you never expect to think of them again. I remember of once, if I can not

very much mistaken of Mr. Rivers speaking of Bass's mind being in the shape it was.

Q. You don't know, I suppose, what Mr. Rivers based it on do you?

A. Just have a faint recollection of him being one of the men I heard speak of Mr. Slomp's health condition. I believe his wife spoke to me once and said that Bass was having mighty poor health, and didn't know what it would turn into. Don't think she spoke of his mind.

Q. You couldn't say there was any report current in the neighborhood that he was out of his mind?

A. I would occasionally hear people talk that Mr. Slomp was losing his mind. Don't know that I could remember who that was. He was a man that stayed close at home as a rule. Never went anywhere much.

Q. Stayed closer at home during the last few years of his life than ever before didn't he?

A. Well, I don't know that I would know about that. He was about eight miles away from me--something like that.

Q. His temper was always a little fiery?

A. Yes, sir, I think so,--that disposition.

Q. He was always mighty kind about his house.

A. Yes, sir. I don't mean that he was an unkind man.

I bought quite a bunch of cattle--just before or after that, I went and stayed over night there, I was taking up cattle for Mr. Reed and was ^{it} raining and Mr. Slomp got up before day, and was out about in the rain. I don't know what he was doing, and his wife complained about his being out in the rain. She seemed to be pestered about it, that he would not take care of his health. He

was then along on the jury list, being doctored, say so, and so on. That is about all I know, and some of that country talk.

Q. You say that you and Mr. Pruitt went around with him all of that day, didn't ^{you} ~~perceive~~ anything out of the way in his mind or ~~the~~ ~~xxxxxxxxxxxx~~ at all did you?

A. No, I think not.

Further this deponent sayeth not. Signature waived.

Also the deposition of J. W. P. Barron, a witness of lawful age, who being first duly sworn deposes as follows:

Direct examination by Mr. Bullitt:

Q. State your name, age, occupation and residence.

A. J. W. P. Barron, 63 years old, occupation farmer, I live in Turkey Cove, Lee County, Virginia.

Q. How far from where S. S. Slamp lived in his life time?

A. About two miles.

Q. How long have you lived at that place, Mr. Barron?

A. Well, with the exception of about three years in the army, and five in the West, I have lived in the neighborhood all of my life.

Q. For how many years past have you lived there?

A. Since 1874.

Q. Did you know S. S. Slamp?

A. Yes, sir.

Q. How long had you known him.

A. From boyhood. I reckon from the time we were little boys there.

Q. Did you or not see him often during the last two or three years of his life?

A. Occasionally--not very often.

Q. Did you, a year or two before his death have any business transaction with him concerning the purchase of a mule; if so, state what that was and all about it?

A. I had no business transaction with him in regard to the mule. I bought a mule from Mr. Ward and he traded Mr. Slomp my due bill--I paid off with a check.

Q. How long before his death did this occur?

A. Well, I just couldn't say exactly.

Q. Give the time as near as you can?

A. I could not come right close; something within a year more or less, might have been more--might have been not quite so long.

Q. Did he come to see you concerning the duebill?

A. Yes, sir. I bought the mule was expecting to pay for it in a few days, and was to pay for it on Tuesday or Wednesday. My understanding is that he traded it to Mr. Slomp as he went home for a young mare. Mr. Slomp came in at the back of the house, from around towards the spring; I asked him--inquired how come him to come in that direction. He ~~was~~ had gone around by Gilly's and up the branch and come across the hill.

Q. Do you mean that he had gotten lost?

A. Seemed that he had, or had missed his route--when he got over there he found that he had to come back across the hill to the house, by the spring. I talked with him a little--he told me he had the due bill. I told him that I was ready to pay it off and was just going to pay it off. He says "I don't need it thinking about

now, you can keep it if you want to. Just wanted you to know that I had it.

Q. How far do you live from the public road that runs from Big Stone Gap to Jonesville?

A. About a quarter of a mile.

Q. Is there or not a plain road that leads from it to your house?

A. Yes, sir.

Q. Where does John Gilly live with reference to your house?

A. Well, he lives back this way.

Q. What is the nature of the ground between John Gilly's house and your house?

A. There is a kind of ridge between; runs back between me and Gilly. There is a spur runs down from the top of the ridge, cuts off next to Gilly's house--broken between him and me.

Q. Is this a considerable ridge between you and Gilly?

A. Not so very much. Just a spur.

Q. Is there any roadway over this ridge between John Gilly's house and your house?

A. Well, there is a passway that I use some.

Q. Well, would any man in his right senses who had been living in that country as long as S. S. Slomp had lived there have any trouble in finding your house and coming to your house by the right road?

A. He could have come to my house by the right road much easier than by the other way. Much more convenient, and a shorter distance.

Q. What I want to get at is Mr. Barron, whether or not, knowing the situation as you do, you can state, or cannot state, whether a man in his right senses, having lived in that neighbor-

hood as long as S. S. Slomp had, could have lost his way and come around the way he did?

A. Well, it seems that he was confused. Must have been confused as to the route he took.

Q. How long has he lived in that neighborhood?

A. All his life--Don't know of his ever living out of it.

Q. And he stated to you that he had lost his way?

A. Well, I don't remember just what he stated, but the inference that I drew from his talk was that he had missed his way--gone around to Gilly's and came back across the hill.

Q. Did you see him in September before he died?

A. Yes, sir. About September.

Q. State what occurred then?

A. I had been down to the meadow where I had some men at work. I saw him turn up the road leading to my house, and supposed that he wanted to see me, and I called to him to stop. He stopped and turned around and started back, and we met just about the forks of the road. After a few words, I told him that we would go on back--I thought he was going to my house. He says "No, I am going around to see another man" Seemed that he could not get the man's name. I asked him if it was Shuler, and he said it was not, and I asked him if it was Gilly and he said it was. He had sold him his cattle.

Q. Was that John Gilly?

A. Yes, sir.

Q. How long has he been living in that neighborhood?

A. Eighteen or twenty years.

Q. He could not remember John Gilly's name?

A. Seemed to have lost his name. He could not get it at just at that time.

Q. Was he, or not, going in the right direction at the time

to get to John Gilly's House?

A. He had started towards my house at the time.

Q. Would that have been away from John Gilly's House, instead of towards John Gilly's?

A. It would not have been going towards Gilly's House at all. After he had stopped there awhile, he said that he had arrangements to meet a man with a cow at home, and that Gilly might not be at home, and he would go on back.

Q. And he didn't go on to Gilly's house at that time?

A. No, he did not go to Gilly's--went on back home.

Q. State what was the general reputation in the neighborhood during the two or three years before Mr. Slomp's death as to the condition of his mind?

Objected to by Mr. Irvine as not competent.

A. Well, I think that it was generally talked that his mind was a little wrong in some shape.

Q. Had you borrowed any money from S. B. Slomp some time prior to his death?

A. Yes, sir.

Q. Did you, some time prior to his death send him a check for what you owed him?

A. Yes, sir.

Q. How much was that check?

A. \$517.00 and some cents, I believe seventy five cents.

Q. Did you ever have any conversation with Hop Slomp about that check after the death of S. B. Slomp, and if so, state what it was?

A. Well, when S. B. Slomp was buried, the day he was buried Hop Slomp came to me and said that I had made a mistake in the

check and he handed it to me and said that I had left out the word "hundred", and I found that I had written "five" instead of "five hundred"; I then interlined the word "hundred" and gave him back the check. Some few days later, Hop came to my house one morning and asked me to take that check in and give him a check in his own name, and I told him that I did not want to do that--that I had never owed him anything--that in case any trouble came up it might not be best for us to do it.

Q. That check which you had given to S. S. Slomp had been held by him and not cashed, if I understand you right?

A. That was my understanding that he had presented it to the bank, and the bank had refused to take it in on account--that there might be some trouble over it. It had not been presented during Slomp's life time.

Last two questions and answers objected to as immaterial so far as Hop Slomp and the Check are concerned. There are no pleadings in this cause involving this transaction.

Q. How long before S. S. Slomp's death was it that you had given him the check?

A. I think it was about two months.

Q. State whether you ever had a conversation with the wife of S. S. Slomp after the death of S. S. Slomp, as to whether or not S. S. Slomp was satisfied with his will, and if so, state what it was?

Question objected to and any answer thereto, as immaterial, by Mr. Irvine.

Q. In a few days,--perhaps the same day Hop was at my house I went down to borrow some money of him, and while talking to her she told me that Bass was not satisfied with his will--

concluded he had not given her enough--said that he would have it changed, but had not done so.

Q. By the way, with reference to that check for \$517.00 that you spoke of when it was brought to you by Hop Slomp, did you notice whether it had been endorsed by S. S. Slomp?

A. I think it was.

Q. Who endorsed his name on there?

A. She told me that she had done it by his order.

Q. You mean his wife told you that?

A. Yes, sir. Mrs. Slomp told me she had done that by his order. Hop seemed to be troubled about the check and I told him to take Mrs. Slomp--an instrument of writing from her stating that she had signed it, and that they aimed for him to have the check, and to take the check to the bank, and take Mr. Clarkson also with him, as Mr. Clarkson was present. I said Mr. Clarkson was present and probably the bank would pay it upon Mr. Clarkson's statement and the instrument of writing from Mrs. Slomp stating that it was the intention that she had signed it before the death of Bass that he had spoken to her about it, and I said that I would meet them here the next morning. So I spoke to her about it, and she said that she had signed it by Bass's order, and they aimed for Hop to have it. That was the circumstances at least, as near the language as I could get at it.

Cross Examination by Mr. E. T. Irvine, of counsel for defendants.

Q. Mr. Barron, on the morning that Mr. Slomp came to your house over the ridge from Mr. Gilly's, was he walking or riding?

A. Riding.--Well, I believe he was walking and leading his horse, and I think he told me that he lead across the hill. Seemed to have gone across the hill and down by the spring. Did not come the path I use down by John Gilly's Barn.

Q. Do you know whether he had come up the main road, past the lane that turns off to your house, and thence on to Mr. Gilly's, or had he come up the river road from towards Olinger to Mr. Gilly's from that direction first?

A. I don't know sir. But I got the impression that he passed this road. I don't know whether I knew at the time. My impression was that he had missed the road.

Q. You did not get that impression from any direct statement of his?

A. Not that I know of. Don't remember now.

Q. Is there a lane west of Mr. Gilly's house on the main road?

A. Yes, sir.

Q. And about three quarters of a mile East of Mr. Gilly's house is another public road that comes up from Olinger into the main road?

A. About half a mile, I recollect it to be.

Q. Mr. Slomp lived back between the main road and the river road did he not?

A. He lived between the two. He was nearly on the main road. Would have been a circuitous route unless he had business the other way.

Q. The main road at your lane, and at Mr. Gilly's house is very similar, in that there is a decided bend in the road, and the road comes down along the hillside at these bends in both places?~~xxxxxxxxxxxx~~.

A. To some extent. Not very similar to me. Hill at the bend of the road in both places.

Q. Didn't Mr. Slomp talk to you as a rational man on that occasion?

A. So far as the business he come on, I thought so. Though it seemed to me that he was not so much on other matters. The idea I drew as to the way he come to the house, was that his mind was off in some shape. Always when I went to Mr. Sleep on business seemed like he pretty well knew what he was talking about. At the same time he was absent minded as to names and places and directions and such as that. Did not seem to remember that.

Q. The occasion that you saw him at the forks of the road near your house, when he said he had started to Mr. Gilly's I believe you stated was in September Before he died, is that correct?

A. I think about that time. I think it was about September. I was having some weeds cut off of where I had sowed clover and timothy in my oats in the spring--think it was in September--about that time--might have been a little earlier--don't think it was later than that.

Q. This was about two months before he died?

A. No, sir--

Q. He died in November didn't he?

A. That would have been about two months before he died. It must have been a little earlier. When I sold my cattle, I paid off this check. Don't reckon I had sold my cattle at that time. I called to him, supposing maybe that he was going to see me about some money I owed him. After I called to him he said he was not going to see me, but was going around to see another man, was about his remark.

Q. Did he seem rational at that time when he discussed business?

A. He seemed to know what he was to have for his cattle. That was three and three quarter cents. I asked him what Gilly was to give him.

Q. His object in going around was to know whether Gilly was going to take them or not?

A. He seemed to be off of the direction--off of his name--couldn't catch his name. Knew the price he was to get--the price he was to have for his cattle.

Q. What time did you sell your cattle that fall?

A. Well I usually sell--usually about the sixth of September. Last year I didn't ship at all, but year before that '95 and '96 I shipped along about the 4th or 6th of September.

Q. And you got settlement for the cattle at the time you shipped?

A. Yes, sir, I got settlement for cattle then. After I come back from shipping the cattle, I paid this note off.

Q. Mr. Barron, do you know whether or not Mr. Gilly bought Mr. Slomp's cattle the year referred to; that is, the year before he died?

A. I think he did. That was my understanding. That was my understanding--that he took them.

Q. Do you know whether or not Mr. Slomp had been upon Mr. Gilly's place the morning that he came down to your house, looking at Mr. Gilly's cattle?

A. No, sir, I do not. He didn't say anything about it.

Q. Suppose he had been, would it not have been the proper way for him to come to your house across the ridge and down that way?

A. Why, he could have come that way. From a certain field he would have come that way.

Q. Was that certain field the field in which Mr. Gilly's cattle stayed?

A. Sometimes. He has some of them in that field usually. Some at other places.

Q. If the cattle were in the field where Mr. Willis lived, back of Mr. Gilly's house, and he had been there to look at them, would not his best ~~way~~ way to your house have been right across the ~~ridge~~ ridge?

A. Well, he would not have come quite so high up--out by the spring. He could have come by the orchard and up the road the way he did. There is a fence runs across the hill and my impression was the way he got from Mr. Gilly's house, he come above that fence and down by the spring.

Q. You were at Mr. Slemp's house several times during the last year or two of his life were you not?

A. Well, some few times--not very often, just when I had business with Mr. Slemp--I was not there very often. Hardly ever there without business. Might possibly have called in a time or two. I used some of Mr. Slemp's money for possibly three, four five or six years before he died, but I had paid him off and did not owe him anything;--paid that off may be some three or four years before he died. Did not owe him any more until I bought the land of Slemp down there, then I went and borrowed \$475.00 from him again. Usually when I wanted money quick, I could go to Bass and get it. When I sold the land in the cove eight or nine years ago, I paid him off what I owed him, and never owed him any thing more until I bought the land from Slemp, and I borrowed \$475.00 which accumulated to the amount of \$517.75, when I paid him off.

Q. During these visits or business trips that you made to Mr. Slemps during the last year or two of his life, did he impress you or not as a man out of his mind.

A. Well, I don't know just where to draw that line. Bass

seemed to be kindly off in some shape, absent minded, but if I struck him on business he appeared to know pretty much what he was doing. When I touched him on anything of that kind; but ^{seemed like} ~~was right~~ to look at him, talk with him, or to hear him talk, there was something wrong with him. How far wrong I am not able to say.

Redirect examination by Mr. Bullitt.

Q. If I understood you, Mr. Barron, the time that he came to your house about the due bill, was September, the year before he died?

A. I think sometime along then. I could not say positively that it was a year. It was a little more--if anything, I would think that it was a little more than a year.

Q. How far does John Gilly live from the county road?

A. Something like a hundred yards.

Q. His house is in plain view of the ~~county~~ county road is it not?

A. Yes, sir.

Q. If a man had mistaken his way and come up to John Gilly's house--wanting to go to your house, after he found it was the wrong house, what would have been the easiest way to have gotten to your house--that is, to have come across the ridge, or to have come back to the road, and around the road.?

A. It would have been more convenient to have come around the road.

Further this deponent sayeth not.

Signature waived.

Also the deposition of J. J. C. Flanary, a witness of lawful age, who being first duly sworn deposes as follows:

Direct Examination by Mr. Bullitt.

Q. State your name, age, residence and occupation?

A. J. J. C. Flanary, age 58, farming; Yokum Station, Lee County, Virginia.

Q. Did you know S. S. Slemp in his life time?

A. Yes, sir. I knew him all of his life--ever since we were any size.

Q. Did you see him shortly before his death at his home?

A. Yes, sir. I was there, I don't know exactly what time. It was just before the reunion at Jonesville--don't remember exactly what date. Year before last.

Q. Do you mean the Confederate Reunion?

A. Yes, sir; at Jonesville.

Q. Do you know how long before the death of S.S. Slemp?

A. Something like two months.

Q. What was the physical and mental condition of S. S. Slemp at that time?

The evidence of this witness and any others who have testified as to the condition of S. S. Slemp after the making of the deeds in controversy in this cause is objected to as incompetent and immaterial.

A. Well, he did not seem like he knew anything much that day I was there. It was directly after his wife had been operated on. Might have been on account of her that he was off. Can't tell about that.

Q. You say he did not seem to know anything, do you mean

that his mind seemed to be a blank?

A. Mind seemed wrong.

Q. Did he say anything on that occasion about how the people were treating him?

A I don't know--went there to buy a mule of him. We had bought one of Dave Slomp and Alfred Slomp--after dinner I proposed to buy the mule colt, and he did not say anything much about it--don't know as he said anything. I told him that I would either take \$55.00 for the one I got of Slomp there, or give him \$55.00 for his, and he sorter acted like he was going to cry. He says, seems like people trying to take everything I've got; then I went up and went in to see his wife, and she said they would not sell it, and I got up and left.

Q. Mr. Flanary what was the general reputation of Mr. Slomp in the neighborhood for a couple of years before he died as to his mental condition?

Objected to by Mr. Irvine.

A. Well, I don't know. I was not about there any except that one time. Well, I was there before that time--I don't know how long. Got a hundred dollars of him and he seemed to be all right then. He told me to write the check, and I wrote check and he signed it, and I made the note and gave to him--Elbert wrote the note. Don't know what date that was.

Q. Do you know what the general reputation--talk was about his condition? for a year or two prior to his death?

A. I heard some say they didn't think he was in his right mind. Heard some of the thrashers talking about it. Think it was James Flanary--Monroe Flanary's James, and some more of them.

~~Examination by Mr. Irvine.~~ Cross Examination by Mr. Irvine.
Q. When was it, Mr. Flanary that you got the \$100.00?

A. I don't remember, some time that I was there before I tried to get the mule colt.

Q. Would that be something like a year before he died?

A. He owed him some six hundred dollars before that, and we were going to buy some sheep. He did not want to take it, and we concluded we would buy some sheep and put in the Crab orchard, and Elbert told me to go back and get \$300.00, and he said he had just \$190.00, and that he had been having some sickness in his family, and he would keep the \$90.00 as he might need it, and give me the \$100.00. I told him that was all right that I would get it over at Mrs. Wyatt's, and I got the other \$200.00 from Mrs. Wyatt.

Q. Did you say that was something like a year before he died?

A. Well, I don't remember--think it was a year or more. Been two or three years ago since I got that money, or more.

Q. Were these the only two times that you were there during the last year or two of his life.

A. Yes, sir. Last three or four year, if not longer. Bought some cattle of him away back yonder, I think was the last time I was there before that. That was way back--if ever I was there only them two times, I don't have any recollection of it.

Q. On the last occasion that you went there, you say that he sat on the porch and said nothing. Did he seem distressed in mind?

A. He didn't seem like he was right. Was not right in some way.

Q. You say it was shortly after his wife had been operated on for cancer?

A. Yes, sir. Nurse was there at that time.

Q. Didn't Mr. Clemp go over to the stable with you to look at the mule?

A. Alfred did. If he did, I don't remember it.

Brad, my son, and Alf went and put up the horses. I don't remember but I don't hardly think Bass did go with us.

Q. When you offered him \$55.00, didn't he tell you that he would not take less than \$65.00 for the colt?

A. I don't remember. If he said that I don't remember it. Might have said it, I can't say as to that.

Q. Mr. Flanary, what you heard about Mr. Slomp's mental condition the last year or so of his life was that his memory was bad--was about it in substance.

A. Well, I don't know as the fellows said. They just said that he seemed to be off a right smart. They came there and thrashed afterwards.

Q. You heard nobody talk about it but these thrashing people?

A. Well, I may have heard somebody else, but I remember them coming and telling how he was at the table.

Q. Do you know when that was?

A. No, sir, I do not.

Q. How long before he died--was it that same season?

A. It was before he died a year or more--year Monroe Flanary's boys thrashed up there.

Q. Was it two years ago now?

A. Been two years or more--been more than two years since they thrashed through the Cove, think it has been three.

Further this deponent saith not.

Signature waived.

Also the deposition of R. E. L. Slomp, another witness of lawful age, who being first duly sworn deposes as follows:

- Q. State your name, age, occupation and residence.
- A. R. W. L. Slomp, Age 30, Crab Orchard, Keokuk--
- Q. What is your occupation?
- A. Farming.
- Q. Were you related to S. S. Slomp?
- A. Yes, sir.
- Q. What kin were you to S. S. Slomp.
- A. I was his half brother.
- Q. Did you have a conversation with him on one occasion when you went there to his house to get a load of corn?
- A. Yes, sir.
- Q. When was that?
- A. It was last July, two years ago.
- Q. That would have been July 1906?
- A. Yes, sir.
- Q. State what that conversation was?
- A. Well, I was over there for a load of corn, and I was aiming to come back home that day. There come up a shower of rain and he told me to stay all night--I told him I had a shoe off of one of my horses and I would go out and tack it on. After I got out there Bass come up. Well he says, suppose you have heard about my making my will, to my brothers--I wanted all my brothers and sisters to have something. Said he wanted to give it as the law allowed. Also, he says "I want Log's wife to have something, because she helped raise them".
- Q. When did you say this occurred?
- A. This July two years ago.
- Q. Log Wampler's wife is Mrs. Melvina Wampler?
- A. Yes, sir.
- Q. You say he said that he wanted to give it as the law allowed?

A. Yes, sir.

Q. Did he say anything about wanting all his brothers and sisters to have their part, and if so, what?

A. He said he wanted his brothers and sisters to have equal parts.

Q. Did he give any reason for why he had not made the will that way?

A. No, sir, not as I remember.

Q. Did he say anything about the boys having gotten him to make his will? If so, what did he say?

A. He said something that way, but I never paid very much attention to it.

Q. Did you or not understand from him at the time that he had not left his property in equal shares to all of his brothers and sisters, or did you understand that he left some more than others?

A. Why, I reckon he did.

Q. When he was talking to you what was his condition? That is, was he calm, or was he excited, or did he cry, or what?

A. Well, when he told me what I told you, he commenced crying.

Q. Commenced crying when he told you that?

A. Yes, sir.

Q. Now, if he said anything about the boys, please try to remember just what he did say about them?

A. Why, he said he made his will to the boys.

Q. Who did he say he made the will to?

Alfred, Hop, Dave and John, I think.

- Q. Did he tell you he had made a will to these boys?
- A. Yes, sir.
- Q. Did he tell you anything about the will, who had witnessed it, or who wrote it?
- A. No, sir.
- Q. Did he tell you what he had left each one?
- A. No, said he had made his will.
- Q. Did he say anything to you about any deeds he had made?
- A. No, just told me about the will.
- Q. Made a will, and left out some of his brothers and sisters, and that he wanted them to have equal shares?
- A. Said that he had made his will, and that he had left out some of his brothers and sisters, and that he wanted them all to have equal shares, according as the law allowed.
- Q. You are a half brother of his?
- A. Yes, sir.
- Q. Did he say how much he wanted you to have?
- A. No, sir.
- Q. Why did he mention Mrs. Wampler in particular?
- A. I suppose it was because she helped raise them.
- Q. Did he say so at that time?
- A. Yes, sir.
- Q. Well, did he say he was going to change his will?
- A. No, sir.
- Q. Why was he talking about it in that way if he was not going to change it?
- A. I don't know. He just come out there and asked me if I had heard about him making his will.
- Q. How often did you go there before this?
- A. Well I did not go there much often--about every month.

Q. I was over there a while before that. Don't know exactly what time.

Q. Was this the only time that he had ever mentioned the will to you?

A. Yes, sir.

Q. He had seemed satisfied with his will before that had he?

A. Never heard him say anything about the will before.

Q. He had had plenty of chances to tell you that he was dissatisfied, if he had been, hadn't he?

A. Well, I don't know whether he had or not.

Q. Was he in the habit of talking to you much about his business?

A. No, sir.

Q. Was this the only time he talked to you about it.

A. Only time about the will. He has talked to me about his stock and things like that.

Q. Did he talk like he was in his good mind?

A. Yes, sir; sometimes talked in his mind, sometimes seemed like his mind was scattered when he was talking about anything. He would be talking about one thing, and jump right off to talking about something else.

Q. Did you think he was not in good shape to attend to his own business?

A. I don't know whether he was or not.

Q. If he had made a will the day you were there and had given you a part of the property, you would have thought the will all right wouldn't you?

A. I don't know about that.

Q. You thought that he was in his good mind when he was talking to you about it, didn't you?

A. Yes, sir. When he was telling me about it I thought he was.

Q. Well, if he had changed the will and made it according to what he told you, it would have been all right wouldn't it?

A. No. If he did not want me to have anything I would not want it.

Q. I think you did not quite understand me, Mr. Slomp, what I mean to ask you is, that if he had made his will the day he was talking to you, and had left his property to all alike according as the law directs, you would have thought that he was in his right mind, and capable of making a good will, wouldn't you?

A. Why, he was in his right mind when he was talking to me about the will--at least I took it that he was.

Q. You say he was in his right mind?

A. That is the way I took it then.

Q. You thought he was in his right mind then?

A. I think he was.

Q. You are one of the plaintiffs in this suit aren't you Mr. Slomp?

A. I suppose so.

Further this deponent sayeth not.

Signature waived.

Also the Deposition of D. S. Reaser, a witness of lawful age, who being first duly sworn, deposes as follows:

K. Direct examination by Mr. Bullitt.

Q. State your name, age, occupation and residence?

A. D. S. Reasor, age 33, farming. I live in Turkey Cove, Lee County, Virginia.

Q. How close did you live to where S. S. Slemp lived in his life time?

A. It was about a quarter or a half a mile.

Q. Did you live there before the death of the said S. S. Slemp, and if so, for how long did you live there?

A. Yes, sir, I lived there before the death of S. S. Slemp.

Q. How long?

A. I hardly know how to answer that question--it was about two years I didn't live anywhere much. I was there something over a year before his death, the last time--that I called it home.

Q. Prior to that time you had been away for two years off and on?

A. Yes, sir, something like two years.

Q. Had you been back there during those two years?

A. Yes, sir--may be not be back more than a day or two at a time. Never moved my stock away.

Q. How long had you lived there prior to his death?

A. Ten years.

Q. Were you well acquainted with S. S. Slemp?

A. Well, sir, I reckon I was.

Q. Were you one of the committee of odd fellows that was appointed to wait on him during his last illness?

A. Yes, sir.

Q. Did you wait on him in his last illness?

A. Yes, sir.

Q. For how long before his death did you assist in waiting

on him?

A. Well I was there right frequent two weeks before he died.

Q. What was his condition during those two weeks?

A. It was very bad, I thought.

Q. Was he in his right mind at all during those two weeks?

A. Couldn't say that he was.

Q. State whether he had any mind at all during those two weeks?

A. Well, at the times that I was there, I really don't know that he did. Don't know that he said anything that would make me think that he did.

Q. From his appearance, would you, or not, think that he had any mind at all during those two weeks?

A. No, sir, because I thought he was right at the point of death.

Q. State what was the general reputation in that neighborhood for two or three years prior to his death as to his mind?

Objected to by Mr. Irvine.

A. I don't know about what was generally known. I heard a good deal of talk that his mind was not exactly right.

Q. For how long before his death did you hear this talk?

A. Well a year, eighteen months, or may be two years. It was none time.

Q. Were there a good many people in the neighborhood that had that kind of talk?

A. Well, I don't know whether there was a good many talked it or not. I heard some several talk it.

Q. What I wanted to know was whether it was generally talked in the neighborhood for eighteen months or two years that his mind was not right.

A. Well, I suppose you might consider it general talk, or something of that kind, by them talking it. I don't know that they talked to other people.

Q. Who else assisted in waiting on him during his last illness?

A. You mean, that was on the Committee?

Q. Well, yes, on the Committee, and, also, relatives or friends--I want to know everybody that was in there?

A. Mr. Jake Young was one of the Committee, and another on Committee--

Q. Was Mr. Alfred Blomp there?

A. Don't know that he was on the committee, but he was there most every time that I was there, and there was a young man by the name of Blomp, Hop Blomp, son of Hop Blomp the brother of Bass Blomp--there was another young man there--suppose he stayed there all of the time.

Q. Who else?

A. Well, I can't call to mind any more now that I would see there everytime I was there.

Q. What women folks were there?

A. Do you mean that I mean there at times, or there regular?

Q. That were there regular and at different times.

A. I just couldn't tell you. Some of Mr. Barker's folks there some times.

Q. Did they have any women nurses to wait on him?

A. Suppose not, without it was the girl that stayed there with him.

Q. What was her name?

A. Coomer.

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Q. What was her first name?

A. Valerie Cooper.

Cross Examination by Mr. Irvine, Attorney for Defendants.

All of the deposition of the witness as to the state of the mind of the deceased two weeks before his death, or near that time objected to as incompetent as being too remote.

Not waiving said objection defendants cross-examine.

Q. Mr. Reesor, how often during the last two years of Mr. Jess Olmep's life did you see him about?

A. How often--

Q. Yes, sir.

A. I couldn't say.

Q. About how often?

A. Well, I could not say. At times he attended the lodge a right smart, and then maybe for a month or so he was not out.

Q. Were you over at his house occasionally?

A. Well, yes, I was about his house once in a while; that is after he got poorly; but I hardly ever was there before that except on business.

Q. Did you up until a short time prior to his death notice anything wrong with his mind in business matters?

A. No, sir. Don't know that I did.

Q. Beyond his seeming to have a failing memory, was there any other difficulty you remember?

A. No, sir, couldn't remember names, perhaps, dates, things of that kind.

Q. Did you notice anything wrong with his mind?

A. No, sir, I don't know that I did. Mr. Blom was a man that never talked very much only on business with me.

Q. When he came to the Lodge and attended its meetings, didn't he seem to be in his right mind?

A. Well, I don't know but what he did. Things would take place that he would forget, and not have any memory of them.

Q. The last year or so of his life he grew worse pretty rapidly, didn't he?

A. Well, I think so.

Q. Last few weeks more and more so until the end?

A. Yes, sir, I reckon so.

Q. The period you testified about is the last two weeks of his life, is that correct?

A. Yes, sir. Last two weeks when I was there most frequent.
Re-direct examination.

Q. Mr. Irvine has asked you whether during the last ~~xxxxx~~ year or two of his life he showed any sign of his mind being wrong in business matters--I will ask you whether during the last two years of his life, he showed signs of his being wrong in other things besides business matters?

A. Well, I don't know, except not having a memory of things. No memory of things taking place a week beforehand.

Q. Was that very perceptible in him--that forgetfulness?

A. I don't believe I ~~xxxxxxxxxxxxxxxx~~ hardly understand what the word means.

Q. Was it very plain that he could not remember things?

A. Yes, sir.

Q. And that condition, if I understand you, lasted for a year or two years before his death?

A. Yes, sir, something like that time.

Q. You did not have any business transactions with him during

that time, did you?

A. No, sir. What business I had with him was before that time.

Re-cross examination by Mr. Irvine.

Q. As to the reputation in the neighborhood, was there any neighborhood talk about his mind being wrong until within about the last six or eight months before his death?

A. Well, yes, I heard talk before that, longer than that.

Q. Did that talk go any further than just to his failing memory and forgetfulness?

A. Well, I don't know as to that. This talk was not so frequent until up near his death. Heard some talk for a year or longer than that.

Q. You never heard any talk about his being incapable of attending to his business until a short time before his death?

A. Well, I don't know that I ever heard anybody say anything about that he was not capable of attending to his business.

By Mr. Bullitt:

Q. What you heard them say was that his mind was not right?

A. Yes, sir--and didn't mention his business in it.

Further this deponent sayeth not.

Signature waived.

Further taking of these depositions is adjourned until tomorrow morning, August 21st, 1903, at the same place in the Town of Big Stone Gap, at nine o'clock a. m.

Met pursuant to adjournment at the same place on August 21st, 1908.

Present the same parties and attorneys as on yesterday.

C. H. Slomp, another witness of lawful age, being first duly sworn deposes as follows:

Direct examination by Mr. Bullitt:

Q. State your name, age, occupation and residence?

A. I am forty five years old--I work on the farm. I live in Turkey Cove, in Lee County, Virginia.

Q. How far did you live from where S. S. Slomp lived during his lifetime?

A. Well, something like from a mile to a mile and a half--I think a mile and a half would cover it amply.

Q. How long have you lived there?

A. All of my life--not exactly where I now live, all of the time, but in sight, three hundred yards perhaps beyond.

Q. What kin were you to S. S. Slomp?

A. Well, we are cousins--our fathers were brothers.

Q. Were you well acquainted with S. S. Slomp during his life time?

A. Well, as much so as a neighbor and kinsman could be. Never was many weeks passed but what I seen him.

Q. Did you see him frequently during the last two or three years of his life?

A. Well, about as much so as common,--hardly ever a week passed but what I would see him. I lived rather between his two farms. He would often walk across through the fields and I would meet up with him. Hardly ever a week but what I seen him.

Q. Commence in the year, 1904, and state any times that you

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not him, at which times, He appeared in any way peculiar--give in detail any transactions or talk between you and him from 1904 on?

A. In the month of September, I had gone over there to get a bushel of corn to make us a little bread, and he had been out looking at some cattle with Mr. Hop Redsor. He came in and he did not appear right that day from some cause or other. I thought perhaps he was drinking some--~~his mind~~ seemed like his mind was kinder flighty--he would be talking about one thing, and then get right off and go to talking about something else. This went on for a week or two, when I brought my cattle down off of the mountain and asked him to go and look at them. He said that he did not have time that morning, said that he had some work he wanted to do, and he would look at them some other time. He appeared to be kinder flighty and looked wild. This man, Lee Coomer, was with him then helping him drive his cattle. So it went on during that winter of 1904 and Spring of 1905. I made mention to one or two of his brothers that Pass was drinking too much, that they ought to try to get him out of it--that he had worked hard and slaved about all of his life, and ought not to destroy his means in that way. Well it went on until about the first days of May he came through a field where I was. He had been over that day to where one of his brothers lived, and he appeared to be drunk, plumb full; I supposed that he had drunk some before he left home, and then had gone over to his prothers and they gave him some more and he got too much. He could not talk hardly at all--tongue seemed to be paralyzed. That was the impression I had that he had gotten too much. When he left me, the last words he spoke, or tried to speak was, "I must go home, my wife is not well, and I have to help her milk."

I looked up at the sun and it appeared to be about two o'clock-- might have been as late as three. I had not harrowed but a round or two after I eat my dinner. They had brought my dinner to me in the field. In an hour, or two hours after that, his brother, Hop Slem, who was working upon the hill came down to the spring to get him a drink, and I says to him "Now, Hop, what do you think about Bass's drinking today?" He says he aint a drinking, and told me how long it had been since he drank anything at all; well then, I says to him, "there is something mighty bad the matter with him then." Passed on then and I did not see him may be possibly I did ~~not~~ see him--I don't know how many times between that and meadow mowing time. One morning he came over to see me about mowing his meadow. He never appeared right at any time after the time I saw him in May. He came over there on Sunday morning.

By Mr. Irvine: What time was that occasion?

A. That was in July along about the first,--first or tenths of July. May be a little ~~later~~ earlier. He came over there and wanted me to take my machine and help him cut his meadow. He mowed his meadow pretty generally a little early. His meadow is bottom land and low and wet land. He wanted to get me to go over there and help cut the grass. I told him that I could go, and that when he got ready to let me know a day or two beforehand, and he said he would. He said he wanted to see his brother Alfred Slem, and wondered what he was doing that day. I told him that I guessed he wasn't doing anything, that he was apt to be about home as it was Sunday. Seemed like he was not right some way or other---I don't know what the cause. He went off in that direction and never did come back to tell me anything more about cutting his meadow. Later on Alf Slem told me that he had got Jim Riddle to cut it,

and his machine was not very good and they had cut it ~~very high~~ pretty high, and had hogged it about, and Bass was talking about having part of it cut over again. So it passed on until Thrashing time, and the ~~thrashing~~ machine was over there in Hop Slomp's yard--
By Mr. Bullitt: What machine was that?

A. Flanary's thrashing machine. I thought I would joke Bass a little about cutting his meadow, I said to him "Bass, did you get your meadow up. The boys tell me you are thinking about having part of it cut over again." He says, "Who said I was going to cut part of it again." "Why, Hop," I told him, and Alf and Hop were both standing by, that it was not cut right and you were going to have part of it cut again. He dropped his head down, and says: "Costs too much to have it put up once, let alone twice." I thought from the way he spoke it kindly flustrated him, so I didn't want to bother him and didn't say anything more then, and walked off and sat down on a pile of rails. In a few minutes he comes over and sits down by me, and says "Chad, my head is about to kill me", I told him to go and get some pills and some medicine that his stomach and liver were out of fix, and he said he had been thinking about it but had not done it. They had broken a bolt out of the steam chest, and one of the parties had gone up to the machine shop to get a bolt, and had rode one of the mules off so they pulled up part of the machine on top of the hill about one hundred and fifty yards,--could not pull all of the machine with one mule; about that time this man come back with the other mule, and they taken both on down that way to the barn, and I went with the boys down to show them where to get in and where to set it. So him, that is, Slomp, and Lee Coomer came on here--he was complaining, and I don't think he looked towards the barn or machine, and it made an impression on me so that I thought there was something

the matter with him, for he was a man that always wanted to help, or asked you if you needed any help, and helped you if you needed it. So he had come on home, and his wife said that this man Coomer drove up to the granary and he, Bass, got out, and come down to the spring house where they were, she and the girl that was living with them, Lerie Coomer, working about the milk, and told Lerie to come up and help Lee clean out the wagon, that he was sick, and he went off toward the house. After Lerie Coomer went off to help Lee clean out the wagon, she said she thought she would go to the house and see what he was doing. She said he was sitting on the side of the bed and had pulled his pants down--

By Mr. Bullitt: You need not tell what his wife said unless you, yourself, personally knew something about it.

A. I don't know anything about this except what his wife told me.

By Mr. Bullitt: Well, then, Mr. Slomp, please pass over that to the next matter that you personally know about.

So much of the latter part of the foregoing answer as details hearsay and things of which the witness has no personal knowledge is objected to as incompetent. By Mr. Irvine.

A. In the next day or two days, I went over to see how he was and they said he was mighty bad, and I found him to be pretty bad off. Hardly know'd anything the way I taken it. Never appeared right any more. Went on down until November,--last of October or first of November, and went down where the tax collector set to collect taxes and he came down there. He had a check on John Gilly for \$298.00, I think it was the amount of it, and he wanted the Treasurer to take his taxes out of it, \$64.00 and a few cents and pay him the rest in money; and the Treasurer said he did not have that much money with him, and that he could not do that, and it

seemed to worry him a good deal; but Crockett Jones told him that he would loan him a check of the amount of his taxes, that he had the money in the bank, and that he could pay him back when he got his check cashed; that is, Bass Slemp's check cashed. He didn't know hardly what to do about it, and it seemed to bother him until he did not know whether to do it or not.

Q. Did he seem to understand?

A. He didn't seem to understand what it meant, but his brother Hop Slemp told him that it would be all right. I wrote the check for Mr. Jones and he signed it, and Mr. Ely taken it on and gave Bass tax receipt. In about ten days or two weeks I was around asking some of the hands to help me shuck corn. I came by his house to ask Mr. Lee Coomer to come and help me, and his wife, Bass Slemp's wife, Velerie says to him, now ask Chad about that duebill-- "that there", I believe was the way she put it; and he sat and studied a minute or two and I did not know what answer to make, and he says "that were what?" She says "That there due bill of Crockett Jones's", and he says, "Why, that is right, did I give Crockett Jones a due bill for that check?" and I told him "No, not in my presence, there was not any due bill mentioned. He and him left Olinger where the Treasurer was sitting that day to collect taxes, and came out a mile or something like a mile together, and he said that he was feeling mighty bad--that his head was aching, and said he would get on home. I was riding and he was walking, and we parted right there in the gap ridge at Olinger's or Slemp's place.

Q. How long did he say his head had been hurting him?

A. About two weeks--been hurting and swimming so that he could hardly go. Said he could not hardly go and that he would try to get on home.

Q. About what time of the year was that?

A. That was in November, some time in November, or last of October,--before the election.

Q. Did he on that occasion appear to have any mind at all?

A. No, sir, nothing to amount to anything.

Q. Were there any people present on that occasion that he went to pay his taxes?

A. Oh, yes, there were several, from ten to fifty, I think. I would not be positive as to how many--good crowd there; Charlie Bailey, Brock Jones and myself and several others. I went in a hurry, I had some work to do, and wanted to get back as quick as I could. I did not take note of how many was there. Noticed Clay and Charlie Bailey was there, and some remarks they made about it.

Q. Do you remember about the time he was said to have made his will?

A. That was in November, some time in November, I think about the 20th. After we shucked corn.

Q. Did you see him shortly before that time?

A. Just a few days.

Q. What was his condition then?

A. He did not seem to have any mind. That was on the occasion I came by to ask Lee Coomer to help me shuck corn. He did not seem to have any mind that day.

Q. Did you see him a day or two after he was said to have made his will?

A. Day, or two, after;--Yes, sir. He got very bad off and I went over to see him, and sent after Ack Gilmer, he seemed to be pretty bad off and did not have much mind.

Q. How long was this after he was said to have made his will?

A. 2 or 3 days, not later I think than 2 or 3 days.

Q. Did you see him frequently from November, 1905, on up until the time of his death?

A. Yes, sir. I would see him--not very often--only when I would go around over in that way. He did not come over in there very often after wheat threshing time, when he took that bad spell. After that they would not let him go out by himself. There was a cave in one of the fields and they were afraid he might get in that cave.

Q. From wheat threshing time on until the time of his death, did he ever seem to be in his right mind?

A. No, sir, not to me--he never did. Never appeared to be in his right mind from some cause or other.

Q. From wheat threshing time on up until the time of his death, would he, or not, in your opinion have had mind enough to attend to business transactions, and making a will?

A. I would not have wanted to have accepted an instrument of that kind made by him during that time.

Q. Did he ever tell you anything as to the nature of his troubles?

A. At one time he said he had a kidney trouble--that he at one period had to get up as many as thirty times in one night.

Q. How long before his death ~~was it that he took that bad spell at wheat threshing time?~~--before he took the bad spell at wheat threshing time?

A. Before the summer of 1905?

Q. Yes, sir?

A. I think it was along in the Spring of 1905, possibly, that he said he was bothered with his kidneys. In the Spring when I went to see about getting some wheat stacked--he was busy then.

Q. Were you with him in his last illness?

A. I went there on the morning and stayed there all day, and all that night and all the next day until about three o'clock, and he died the night following the morning I went there--I don't know just what time--I was not in there.

Q. What was his condition at that time?

A. Well, it was bad. I think death was on him when I went in, and that it never left him.

Q. What was the condition of his mind?

A. Oh, he had no mind. Could not speak a word--could hardly make a sign or motion for a drink or something that way.

Q. Now, you have stated that when you first commenced noticing that he was in some way peculiar was along in the spring of 1905 and Fall before that, that you thought he was drinking too much--did you afterwards become convinced that the trouble was something else?

A. Yes, sir, I did. After me and Hop Slomp had that conversation, when Hop said that he hadn't been drinking any whiskey for some length of time. I told Hop then that there was something mighty bad the matter with him.

Q. After that when you would see him, would his appearance indicate to you that there was something wrong with him other than drink?

A. I couldn't state. Never appeared to me right--never got no better.

Q. How many times a week, or a month did you see him do you suppose during the last eighteen months of his life?

A. Would see him every week, or every two weeks, hardly ever two weeks passed, but what I would see him passing about.

Q. Were you one of the Commissioners who valued his estate after his death?

A. No, sir.

Q. Do you know what his personal estate was valued at.

A. No, sir. Just what I heard said. Don't know as I could give a correct statement as to what his personal effects, notes and bonds would amount to--something like thirty odd hundred dollars. Seems to me like I heard some of the boys say that the sale bill amounted to \$1700.00.

Q. What was his real estate that he conveyed to his four brothers and his wife supposed to be worth?

A. Well, the way land is estimated in that neighborhood and the country round, and pretty generally rated, it would be from \$40.00 to \$50.00 an acre.

Q. And, how many acres were there?

A. I think they claimed 111 acres in his Home Place, and supposed to be 180 acres more or less in the other place.

Q. What, in your judgment was the total estate worth?

A. Well, I guess his estate, all summed up, would amount to between Twelve and Fifteen Thousand Dollars. I never made any figures, in fact never noted what his personal matters amounted to.

Cross-Examination by Mr. Irvine:

Q. The first hard spell you knew of his having was at wheat threshing time in 1905, was it?

A. Yes, sir, 1905, yes, sir.

Q. About what month and day of the month was that?

A. Well, as to the day of the month, I couldn't tell you.

It was the last of July, or first of August, as to the day, I couldn't tell you.

Q. This threshing was done by Jim Flannery, son of Monroe Flannery?

A. Yes, sir.

Q. He told you that he had a swimming of the head?

A. Yes, sir.

Q. The next time that you noticed anything wrong was at the time of the tax collecting at Olinger?

A. After that--well I may have met him between times, time or two--he never appeared right at any time after the fall of 1904, in September. He seemed to have no action about him--his eyes looked glassy--looked wild; but I thought that he was drinking at that time, but later on his brother told me that he was not drinking--I then began to think about something else. I never know'd what was the trouble and don't know yet. Only what other people says, and I don't know whether they know or not.

Q. After the time at Olinger when you were collecting taxes, the next occasion that you took particular notice of was when you went by to get Lee Coomer to shuck corn?

A. Yes, sir. That was about ten days or two weeks later on.

Q. And that, you think, was a short time before he is said to have made his will?

A. Yes, sir.

Q. About how long before?

A. Well, it was just in a few days--I couldn't say just how many days.

Q. On that occasion he said that he couldn't remember anything no more?

A. I said his mind got wrong, he couldn't tell names and things like that.

Q. After his wife brought up the subject, he did remember the transaction and asked you about the due bill, didn't he?

A. Yes, sir.

Q. Did you discuss anything further with him?

A. No, sir, only I told him there was no due bill given in my presence,--oh, we might have talked along some after that.

Q. He seemed rational otherwise, except forgetting those matters?

A. No, sir, he didn't seem right. Seemed like he was flighty--talk a word or two on one subject, and then fly right off onto something else.

Q. How long did you stay there and talk to him on the last occasion?

A. Not very long--fifteen or twenty minutes possibly. Always had to talk a little with him when I met him.

Q. You came by there in a hurry to get Lee Cooner?

A. Yes, sir.

Q. You only tarried there a few minutes?

A. About ten or fifteen minutes,--may be twenty.

Q. And you discussed very little matter with him except the due bill?

A. Yes, sir, that was about all. Spoke about other matters, one thing and another, talk a word or two about one thing and he would jump off on to something else.

Q. You next saw him two or three days after he was said to have made his will? Where did you see him then?

A. He was at home in the bed--very bad off, I considered him.

Q. How long did you stay there on that occasion?

A. Guess I stayed there an hour. Young Dr. Gilmer was waiting on him. They said he was--I was not there at the time. He had been there.

Q. Did you attempt to have any conversation with him on that occasion?

A. Nothing more than asking him how he came on--he seemed to know nothing about what I was talking about--so I turned around and began talking to his wife. Stayed there something like an hour and got up and went on.

Q. You don't know what his physical condition was, that is, as to whether his stomach was bad, liver bad, kidneys bad, or what?

A. No, sir. Couldn't tell only what he told me. That was in the Spring of 1905 that he told me that he had kidney trouble, --I went over to see him about getting some sweet potato seed. I think it was thirty odd times he told me he had to get up the night before.

Q. That bad headache, and swimming of the head are the only particular things you ever heard him mention?

A. That's about all he ever said to me, said he got forgetful, --couldn't remember anything?

A. Yes, sir--couldn't remember anything.

Q. You lived a mile and a half from him?

A. Yes, sir. Something like a mile and a half, I think that would cover the distance.

Q. You say from wheat threshing time in 1905 on he did not leave home very much.

A. Not a great many times, except with some one with him.

Q. Do you think you were over about his house as much as every two weeks after that time?

A. Well,,I don't know whether I was or not. I would see him, I think, as often as every two weeks.

Q. Do you think you went over to his home as often as once every two months?

A. I think so. I know I went there often after he took those bad spells. I would go every chance I got to see how he was.

Q. How many times did you see him do you think between wheat threshing time and the Olinger tax paying occasion?

A. Well, I couldn't say as to that--just how many times. He was right bad off during that time. When I didn't see him out, I would step over to see how he was. Sometimes I would be out passing about there, or coming through there, and go in to see how he was.

Q. Was he not up and walking around nearly all of that time?

A. Sometimes up, and sometimes on the bed.

Q. I want now to confine your attention to the specific period between the time of the wheat threshing, which was in July, 1905, and the time the taxes were paid at Olinger, which you put the latter part of October; during those two or three months how often did you see Mr. Slem?

A. I saw him any way from three to four times, probably as many as ten times.

Q. Did you see him at home and about home?

A. Some of the time at home--went over there some times when he was right bad off.

Q. He was bad off right after and during the spell that came on him about wheat threshing time, as you have stated?

A. Yes, sir.

Q. But he was not bad off, as I understood from you, at any

time after that, until he paid the taxes at Olinger ?

A. Yes, sir. He took several spells between that time and tax paying time--I don't know how many.

Q. Was he confined to his bed any during that time?

A. At times he was--when he took bad spells he was on the bed.

Q. Do you mean that he was sick in bed?

A. He was sick in bed, right on the bed. Had doctor with him a time or two when I was there. I would see him going there, and as soon as I would get a chance, I would go over to see how he was.

Q. Do you mean that he would go to bed for all day, or that he would get up and dress and walk around, and lie down some?

A. I suppose he had his clothes off. He was under the cover except at the time of his death--then sometimes he would have it on him and sometime have it off.

Q. Did you ever have any particular occasion to talk business with him, or just go to see him about his health?

A. Oh, just go to see him about his health, about all.

Q. You would only go, soon after, as I understand you, when you heard he was not so well, and the doctor would come.

A. When I would hear of him going, or when I would hear of him having a bad spell, I would go over and see him as quick as I could after that.

Q. You had no particular occasion to go--only just to see him?

A. No, sir.

Q. You did not hear him take up business with any other people during that time?

A. No, sir. Not during his sickness with them bad spells.

Q. Did he not transact all of his business himself during the fall of 1905, and the winter and spring following?

A. As to my knowledge, I don't think he did altogether--not altogether. From what I could remember--only on one occasion Mr. Gilly went there to pay for some cattle he had bought of him, and his wife done the trading.

Q. Was that John Gilly?

A. John Gilly. That was in nineteen and--that was the summer before he died--during the summer just before he died. Summer of 1906. I understood that they had to see her about trading cattle the fall before. I don't know that to be a fact.

Q. You know nothing about his trades and business transactions personally then, as I understand you during that period.

A. No, sir, nothing more than that John Gilly went over there to buy a couple of heifers he had.

Q. Did you see that?

A. I heard it.

Q. You were present at that time?

A. Yes, sir, I was right there that day. He did not appear to know anything, and John done the talking with Mrs. Sloop.

Q. Which one of his brothers was it that you spoke to about Boss Sloop in September, 1904, about his drinking?

A. That was the first time--I never spoke to him in that month, it was shortly after that. It was Hop Sloop. I don't know whether I spoke to him during that month or not. I spoke to him later on--it was in September that I detected something wrong with him, and thought he was drinking.

Q. Hop the only one of his brothers you ever talked to?

A. Ever mentioned it, yes sir. He and him had several talks about it. The last time was in May, 1905, the day Boss came by on

and I thought he had gotten too much;--thought that he had drunk some before he left home, and then had gone over to his brother's and he had given him some more, as Hop always kept it, and that he had gotten too much. Hop came along in about one hour or two hours later in the day, and I asked him what he thought about Bass 's-day, about his drinking too much. When I mentioned it to him, he said he didn't know how long it had been since Bass had drank anything.

Q. Do you remember at Olinger at the time the taxes were paid in 1908, that Mr. Sloop in making his settlement for taxes failed to include the amount of one ticket?^{small}

A. Yes, sir. He did not take out the check himself, some other parties did. ^{and count up the tickets}

Q. Who did?

A. Well, just could not call to mind right now who did. In making the calculations to see if it was right for him--I got somebody to make the calculation for him, and found that one ticket had not been included, the Flanary piece, for \$4.00 and some thing. He wrote one check, and tore it up and had to write another one. I disremember who made that calculation for him. The Treasurer handed ^{him} the ticket and asked ~~me~~ to count it up to see if it was all right. I could not call to memory right now who that was.

Q. Didn't he tell you that the amount of this ticket had been omitted, and asked you what he ought to do about it, and did you not tell him to do nothing,--that he had the receipt, and that was all he wanted, no words to that effect?

A. I don't know that I did sir. I think him and his brother Hop come out in the yards and said there was a mistake of that ticket, and wanted to know what to do about it, and I told them that they would have to make another check if they paid it. They all seemed to ^{be} short of money and we just went back into the house and tore

up the old check and wrote another one.

Q. And did he not tell you that he had always been an honest man, and had never swindled anybody up to that time and did not intend to do it at that time?

A. I don't think he did. Never had that talk to me.

Q. Did not this conversation, or the substance of it take place in the presence of Crockett Jones, Hop Slomp, and perhaps others?

A. There were several people sitting around there at the time. Don't know who they were. Don't think he handled that talk to me, or in my presence.

Q. Didn't he seem, on that occasion, to understand his business?

A. He didn't seem to understand it very much. He didn't hardly know what to do about taking Crockett Jones' check to pay off his taxes until Hop told him it would be all right.

Q. Mr. Slomp, haven't you been very active in working up this case for the plaintiffs, and are you not somewhat prejudiced against those defendants?

A. No, sir, not at all, sir.

Q. Haven't you been hunting up witnesses and making suggestions in your neighborhood?

A. No, sir, never made a truck in that direction--nary one.

Q. Your daughter married E. F. Wampler, did she not, son of Melvina Wampler?

A. Yes, sir.

Q. He is the main man working up this case?

A. Not that I know of--me and him never talked anything about it at all. I heard some rumors that they were accusing me of it, and I would not talk to him about it--told him I did not want to know anything about it. They are accusing me falsely and I ain't afraid to tell them so--every one of them--the ones that done it.

Re-direct examination.

Q. Mr. Slomp have you ever said one word to either Mr. Chalkley or myself concerning this case until this morning when you came here to give your deposition?

A. No, sir. No, sir,--never on earth.

Q. Have you ever had any conversation of any kind with either Mr. Chalkley or me concerning it, or did we know anything you would testify until you came here this morning?

A. I don't suppose you did? Don't see how you could to my knowledge.

Further this deponent sayeth not.

Signature waived.

By agreement the further taking of these depositions is adjourned to Friday, August 23th, at the same time and place.

Met pursuant to adjournment at the Office of Bullitt & Kelly, in the Town of Big Stone Gap, on the 8th day of August, 1908.

Present, S. Melvina Wampler and Jno. W. Chalkley and J. F. Bullitt, attorneys for complainants; Alfred Slemp, John Slemp and F. T. Riddle, and R. T. Irvine, C. T. Duncan and J. C. Noel, attorneys for defendants.

Dr. J. P. Edmonds, a witness of lawful age, being first duly sworn, deposes as follows:

- Q. Dr. state your name age and residence?
- A. J. P. Edmonds, Stonega Virginia, Age 34.
- Q. What is your profession?
- A. Physician.
- Q. How long have you been a practicing physician?
- A. Ten years.
- Q. What position do you now hold as physician?
- A. Physician for the Stonega Coke and Coal Company.
- Q. Are you the chief physician for the Stonega Coke and Coal Company?
- A. Yes, sir.
- Q. How long have you been the chief physician for the Stonega Coke and Coal Company?
- A. Four years.
- Q. Did you know S. S. Slemp, commonly known as Bass Slemp in his life time?
- A. Yes, sir.

Q. For how long before his death had you known him?

A. He died in 1906, I suppose I knew him two years before that.

Q. Did you see him in November, 1905, on the day he is said to have made his will?

A. Yes, sir. He didn't tell me so. I think that was their business--making his will.

Q. Where did you see him?

A. At his home.

Q. Who was there when you saw him?

A. Will Slemph and myself, and, also, Harvey Young and Marion Clarkston and Bass Slemph.

Q. How did you happen to go there on that day?

A. We were down there hunting, and went by his house to ask permission to hunt on his land.

Q. What time of the day was it that you went there?

A. I don't know whether it was in the afternoon, or forenoon.

Q. Was it or not, sometime near Noon, before or after?

A. Well, sir, I couldn't say, because we were there, Will and I, the year before hunting, and I have just got the times of the two years mixed up. I have forgotten the exact time of day.

Q. What seemed to be the condition of Bass Slemph's mind the time you were there?

A. His mind seemed to be weaker than it was the year before when I saw him.

Q. What did it appear to you was the matter with him?

A. Well, from all that I had heard about him, I did not examine him--from what I had heard, and from conversation, talking to him in a general way the day ^{we} were there, seemed to me to be some brain affection.

Q. What brain affection did you think, or conclude he had?

A. Well, I did not arrive at any definite conclusion, but just taking from his condition, age and the way he talked, it must have been softening of the brain. I did not examine him though.

Q. What was the nature of his talk as to coherency; that is, was it coherent, or was it rambling?

A. I don't remember just the nature of it. We were talking generally to the crowd, and we asked him something about hunting on his place, and he said we could.

Q. Did his talk seem to be rambling?

A. It struck me that his talk was--I don't remember whether it was rambling. I had heard a great deal about him. I don't remember the conversation but it struck me that there was something wrong with his mind.

Q. Did it make a sufficient impression on you for the question to be raised in your own mind as to whether he was capable of transacting business or not?

A. No, not at that time it did not.

Q. After you left there, did you think of that?

A. I did, after we left, I thought something of it, and I believe I said something to Will Slem, that I wondered if he was in a condition to fix his property intelligently.

Objection to last answer as incompetent.

Q. How long after you had left his house did that thought occur to you, and did you speak it to Will Slem?

A. Well as I remember, immediately after we went out the gate.

Q. Had you seen Bass Slem at any time shortly prior to the occasion that you speak of?

A. No, sir.

Q. How long had it been since you had seen him before that

time?

A. I think it must have been a year.

Q. Doctor, what is softening of the brain?

A. It is a breaking down of the substance of the brain, undergoing a degeneration.

Q. After this disease has progressed for some time, does it or not, render a man mentally incapable of attending to business?

A. Well, you couldn't say it renders all men incapable.

Q. Doesn't it often have the effect of rendering them incapable of attending to business?

A. Yes, sir. But some of them get to be in better condition than they are during the attack; that is, the acute attack.

Q. Now, Doctor, I will ask you this hypothetical question: Assuming that a man has softening of the brain, and that he has had an acute attack in July, and that between July and November 21st, of the same year, he has gotten some better, but has never seemed entirely himself, and that in the early part of November he had another acute attack, and that on the 21st day of November, on the morning of that day--

A. Just wait a moment, may I correct you--If he had had an acute attack in July, and another acute attack in November, it had become chronic.

Q. What do you mean by saying it had become chronic?

A. We usually term, a man gets better during attacks, and he still has some breaking down of the brain substance, that it becomes chronic after a while.

Q. After softening of the brain becomes chronic is a man then in condition to make a will and transact business of that importance?

A. I am not able to state an opinion on that, Mr. Bullitt, at this time.

Q. Well, now assuming as I have before stated that S. S.

Slomp had softening of the brain, and that he had an acute attack in July of 1905, and had then gotten somewhat better, but had never seemed entirely himself, and that he had had another acute attack early in November, and that on the morning of the 21st, a man to whom he owed some money went to him and asked him for a dollar, and that he handed to this man a five dollar bill; that thereupon the man told him that this is a five dollar bill and not a one dollar bill, and that thereupon Bass Slomp broke down and cried, and said, you are trying to make out that I have no sense, or words to that effect; and that thereupon his wife was called into the room, and the man then asked her to tell Bass Slomp whether that was a five dollar bill or a one dollar bill, and that she, his wife, then assured him that it was a five dollar bill, and that he, Bass Slomp, again replied that they were trying to make out like he had no sense, or words to that effect, and that the wife then told the man to take the five Dollar bill just to satisfy Mr. Slomp, and that she would charge it on his account. Assuming the truth of the facts set forth in the above question, would you say that he, on that day, was in condition to make a will?

A. No, sir.

Cross-Examination by Mr. R. T. Irvine.

Q. Doctor, did you know S. S. Slomp well, or not?

A. Not intimately. I had been to his house a number of times, passing and talked to him.

Q. You have not seen him, I think you said for a year, or about that, prior to the day he made his will, or is said to have made his will?

A. I think it was about a year previous to that when I saw him.

Q. Didn't he seem perfectly normal on that occasion, a year

prior to the will time?

A. A year prior to this time?

Q. Yes, sir.

A. Yes, sir. He went up in the field hunting with Will Slomp and myself, and seemed to be in pretty good condition.

Talked-- and walked all around in the fields with us.

Q. You have named, I believe, all of the people you saw there the day you were there on the last occasion?

A. No, I do not know whether that was all or not. That was all I recall. I am inclined to think there was another man there. I don't remember who it was. Maybe one or two men out at the stable. I don't remember their names, and I couldn't say positively who else, but I remember those.

Q. You and Will Slomp asked permission to hunt on his place I believe?

A. Yes, sir.

Q. He told you to go ahead? He didn't think you could do much harm?

A. He told Will "I don't think you could do much harm--you couldn't hit a stable," or something that way. "But I don't want that Doc Edmonds to kill all of my birds."

Q. He was jollyng you then, was he not?

A. Yes, sir.

Q. He seemed to be rational and in a good jovial humor did he not?

A. Well, when we asked him he said that, but then he seemed to be--his mind seemed to be weaker than it was the year before.

Q. Did he not look physically weaker as well as mentally on the last occasion than when you had seen him the year before?

A. I believe he seemed to be a little fleshier, Mr. Irvine.

Q. I suppose you do not know anything of his physical condition during that intervening year?

A. No, sir.

Q. You know nothing professionally as to what was the matter with him?

A. No, sir, I do not.

Q. The conclusions that you draw are based on the little that you saw of him thereon that occasion, outside of the hypothetical question that has been asked you?

A. And what I heard of him.

Q. Had you heard anything more than that his memory was weak?

A. No, I had heard that his memory was weak.

Q. Is not a weak memory an accompaniment of old age and physical debility independent of softening of the brain?

A. I couldn't say. No, it is not always an accompaniment of old age.

Q. Certainly not always. I mean is it not a frequent accompaniment of old age?

A. See it very often.

Q. Is ~~the~~ loss of memory at what may be called lucid periods a necessary accompaniment of softening of the brain? I mean between the so-called lucid attacks, by lucid intervals.

A. Yes, sir.

Q. Is there any rule known to medical men as to the frequency of attacks in cases of softening of the brain?

A. No, sir, I think not.

Q. Did I understand you clearly that you thought if there was an acute attack in July and another in the early part of November, it would indicate a chronic condition of softening of the brain?

A. Yes, sir.

Q. One acute attack does not indicate it, but two does, is that your idea?

A. No, sir, the time and age.

Q. Your idea is that between July and November in a man of his age, it would indicate a chronic condition?

A. Yes, sir.

Q. How long would a man of Mr. Slemp's age, assuming that he was from sixty to sixty two years old at the time of his death, live ordinarily with softening of the brain, after an acute attack in July, followed by one in November of the same year?

A. Don't know. No way to determine that.

Q. Wouldn't he be capable of transacting business in a normal way after the second attack ordinarily?

A. I couldn't say.

Q. How many acute attacks may a man ordinarily have of his age, before it is followed by death?

A. After a man is fifty years old and he has any softening of the brain it becomes chronic, and he may have a number. There is noway to determine how long he will last.

Q. How long after this state of things sets in is he capable of transacting business in a rational way usually?

A. There is no way to tell that, because each case is a case unto itself, and you can't tell whether it is a bad case or a light one. No way to tell it until you see the man. See each case separately.

By Judge Duncan, one of attorneys for Defendants.

Q. How long were you at Mr. Slemp's on the 21st day of November, 1905, the day of which you have spoken?

A. I suppose eight or ten minutes.

Q. What did Mr. Slemp say or do on that day that made you

think his mind was weaker than when you saw him the year before?

A.³ I don't remember what he did, or what he said, other than our just ~~ask~~ asking him permission to hunt; that is, the men were there, and I knew all of them and we were talking, and I can't think of the conversation, of what he said. It was the general conversation impressed me something was wrong.

Q. Did he not invite you to ~~ask~~ stay for dinner on that day?

A. I don't know whether it was dinner--he said stay for something. I don't remember what it was--whether it was to set down and talk to them a while, or stay for dinner, I don't know.

Q. Don't you remember that he insisted on you staying for dinner, and you excused yourself by saying that you and Will had brought your dinner with you?

A. I don't remember, Judge. I got them two years mixed up, being right there at his house asking the same privilege. I don't know whether that passed or not. --time he did ask us to sit down and stay--it might have been the time, I don't recall it.

Q. Was there any other conversation occurred between you and Mr. Slomp and Will Slomp, except the invitation to sit down and stay for dinner, or whatever it was, and the granting of the permission to you to hunt on his land?

A. He came to the door with us, but I don't remember what the conversation was--what was said at all.

Q. Aint your mind and recollection on that day based on what you had heard circulated in the neighborhood, more than on anything that occurred on that day?

A. Well, I had heard of different things that was wrong with him, and I didn't know his condition at all, and when we went there that day, I saw there was a change from the year previous.

Q. Was that a physical change or a mental change?

A. Mental.

Q. Now, what was it that he said or did that called your attention to the state of his mind? Give whatever word he said, or whatever thing he did that caused you to form that impression?

A. I don't remember what the conversation was, because I never expected anything of this kind. After we came out I said to Will Slomp--

Objected to. What you said to Will Slomp after you came out does not cut any figure in this case.

A. Well, I don't remember what he said.

Re direct examination by Mr. Bullitt.

Q. If I understand you you do remember that he did say something which you can't now recall, which did make an impression on your mind at the time?

A. Yes, sir.

Q. Doctor, Mr. Irvine has asked you whether before you went there on that occasion you had heard that Bass Slomp's memory was weak. I will ask you whether you had or had not heard before that time also that he had softening of the brain?

A. No, sir, I don't think I had heard that.

Q. I will ask you whether if a man has a disease known as syphilis in his youth, that would or would not have a tendency to make him have softening of the brain in his old age?

A. It would, unless he was properly treated.

Q. You mean unless he was treated properly at the time he had the original disease?

A. Yes, sir.

Q. Is it possible to treat a man properly for that disease while he is in service in the army, and remains in active service in the army?

Yes, sir. I do not suppose it was at that time.

Q. I have referred to the Civil War, you say you don't suppose it was possible to treat a man properly at that time--

A. It is possible, but geneeally, I don't think any of the diseases were treated right.

Q. Would kidney trouble, or some forms of kidney trouble, have a tendency to produce softening of the brain, or accompany softening of the prain?

A. Yes, sir, produce it.

Q. That would produce it?

A. Yes, sir.

By Mr. Irvine.

Q. Which would prâduce which?

A. Kidney trouble produce softening of the brain.

Re-cross examination by Mr. Irvine.

Q. Doctor, if a man had had a case of the disease spoken of in youth, say about 1864, while in the army, and came home, as it has been shown S. S. Slemp did, and for forty years worked hard and was a ~~normal~~ moral man, and accumulated by hard labor and strict attention to business a considerable fortune for his neighborhood, would you say, or not he had been entirely cured of the disease at the time he had it?

A. I don't know whether he was cured. Don't know whether he had it. But in thos times they didn't treat it right.

Q. I mean to make my question general, if he had had it, and it had not been treated right, would it not during the forty years afterwards have manifested itself, and before the end of the forty years?

A. I think so.

By Judge Duncan, of counsel for Defendants.

Q. You state in your re-examination, Doctor, that there was

something said in the conversation on that day that attracted your attention and made you think that Mr. Slemp's mind was weaker than it had been when you saw him the year before. I will get you to state if there was any conversation at all, between you and Mr. Slemp with reference to anything else except the hunting on his land, and his invitation to you to stay for dinner?

A. Yes, sir, we went in--I remember, we were in the house, and I think Will Slemp had a little bottle of whiskey. I never took any of it--we sat down, and I don't know who all took any of it. Will passed it around, and I don't know who did or did not. As far as any particular conversation, I don't remember, Judge. They were all talking.

Q. Do you think that it was the bottle of whiskey that caused Mr. Slemp to think that you and Will Slemp couldn't hit his birds, could not even hit a flying barn door?

A. No, I think not

Re-direct Examination by Mr. Bullitt:

Q. Doctor, in answer to one of Mr. Irvine's questions you have stated that if one had the disease of syphilis in his youth that if it hadn't been treated properly it would make itself shown sooner than after forty years. I will ask you whether or not that disease might lie dormant in the system, so far as outward appearances went, and then after forty years produce softening of the brain?

A. I can't answer that. Whether it would produce it or not.

Q. What I want to get at is, so far as outward appearances may go, there may be no sign of the disease, and yet the disease may be working in their system all the time?

A. Very often they do.

By Mr. Irvine.

Q. Have you ever known of a case, Doctor, where the disease would lie dormant for forty years, and the man in the mean while be perfectly healthy, and then show its effects on him?

A. No, sir.

By Mr. Bullitt:

Q. Have you read of cases, where to outward appearances the man seemed perfectly healthy, and yet after forty years this disease showed its effect on him?

A. I don't recall any. The disease will produce a brain trouble,--but after forty years or two years-- It may be latent for five or six, and it may be latent for a number more of years. I don't know the time when there would be any manifestation of the disease. Can't say.

By Mr. Irvine.

Q. But you never heard of a case where it was latent and broke out after forty years?

A. No, sir.

Further this deponent sayeth not.

Signature waived.

Also the deposition of Will Coomer, a witness of lawful age, who being first duly sworn, deposes as follows:

Direct Examination by Mr. Bullitt:

Q. State your age and residence?

A. I am thirty seven years old.

Q. Where do you live?

A. Live in Lee County.

Q. What is your occupation Mr. Coomer?

A. Farming.

Q. How long have you lived in Lee County?

A. Well, I was born there--been in Lee County all of the time--well I lived up here two years or eighteen months.

Q. Did you know S. S. Slomp, commonly known as Bass Slomp, in his life time?

A. Yes, sir. I have know'd him as long as I can recollect anybody.

Q. How far did you live in Lee County from where he lived?

A. In Wise, when I lived at the Extract, was the farthest I ever lived away from him.

Q. How close did you live at other times to him?

A. Well, something like a mile, may be two miles.

Q. Did you rent any land from him?

A. I rented of his wife, there, the place?

Q. When was thisthat you rented the land of his wife?

A. Well, I don't know esactly how long.

Q. Do you know when he is said to have made his will?

A. Well, I had rented before he made his will. I lived there on the place when he made his will.

Q. How long before he made his will was it that you rented the property from him?

A.

A. Well, I don't know esactly how long. I was there working for him cutting corn a'fore I rented.

Q. Well, was it the Summer before he made his will?

A. No, sir, he made his will in the Fall of the year, and I cut corn, I reckon it was the same Fall that he made his will, before I moved there.

Q. Then it was in the Fall of the year that he made his will that you rented this property--the same fall that he made his will?

A. Yes, sir.

Q. You say that you rented the property of his wife--why didn't you rent it of him?

A. Well, he said whatever she done--he was not able to get about--and whatever she done was all right.

Q. What was his mental condition at that time? At the time you rented, what was the condition of his mind?

A. 'peared like his mind was wrong. Maybe be talking all right a few minutes, and then in the next few minutes would be onto something else. 'peared like he was forgetful or something that way.

Q. And he didn't undertake to rent the property to you himself, but turned it over to his wife to rent?

A. Yes, sir. He said ever what she done was all right. That she wanted somebody about helping feed. My brother stayed there then, and wanted somebody to help feed--

Q. Did you see him on the day he made his will?

A. I saw him that morning.

Q. Tell what occurred on that morning?

A. Well, I asked him for a dollar to buy some bacon with. I reckon he thought he was giving me a dollar and he gave me

five dollars. I showed it to him and told him that it was a five dollar bill. He commenced crying and said he wasn't wild, he know'd what he was doing. I told his wife, and she tried to make him see, and he said me and her narry one didn't know antyhing; she then asked me to take the five dollars to satisfy him, and I took the five dollars and she charged it on the books to me.

Q. Did he say anything about you and his wife trying to make out like he was foolish, and didn't know anything, or words to that effect?

A. No, sir. He 'peared like we thought he didn't know anything, but said he know'd as much as we did.

Q. And his wife told you to take the five dollars?

A. Yes, sir. She told me to take it and she would charge it on the books, to satisfy Bass, and I told he r it was all right than.

Q. Did he ask you to go after anyone on that morning and if so, who?

A. Yes, sir. I went after Mr. Clark.

Q. You mean Mr. Marion Clarkston?

A. Yes, sir.

Q. When you came back, did you see Bass Slomp?

A. Yes, sir. When I come back, he asked me did I git them fellars off of the train?

Q. And what did you tell him?

A. I told him, no, sir, I hadn't went after any fellars on the train--that I went out to Mr. Clarkstons, and then he said "Oh, yes."

Q. Mr. Coomer, from what you saw of him on that day, do you or not, think he was in proper mental condition to make a will and transact other important business.

A. I don't say he was crazy, or anything of khat kind.

'Peared like he was forgetful, be talking with good sence on one thing and then jump right off onto something else; -- 'peared

like he would forget.

Q. In your judgment did he on that day have sense enough to make a will, and transact other important business?

Objected to by Judge Duncan, because asking for an opinion from a non-expert.

Q. Whether or not on that day it seemed he had sense enough to make a will and transact other important business?

A. 'Peared like his mind was not good.

Q. You have stated that he would talk about one thing sensibly for a while, and then fly off onto something else that was not sensible, I would ask you if that was his condition on this day--the day he made his will?

A. That morning he sorter talked that way. I didn't stay there all day. Talked with him that morning before I went after Marion Clark.

Q. Was he in that same condition--flighty that morning?

A. Yes, sir.

Q. When you got back there, and he asked you whether you had gotten those men off of the train, was he or not, still flighty at that time?

A. Well, about the same.

Q. Did he ever say anything to you about being dissatisfied with his will after it was made, and if so, state what it was?

A. He said he wanted to will Mrs. Wampler--
Objected to by Mr. Irvine as incompetent and immaterial.

A. He said he wanted to will Mrs. Wampler here a hundred dollars.

Q. Well, what did you say?

A. Well I told him, looked like he had plenty that he could do that if he wanted to.

Q.

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Q. What did he reply?

A. Said he just didn't know--said he wasn't satisfied with the way it was done.

Q. Did he say anything else about the matter?

A. No, sir, I don't believe he did.

Q. To refresh your recollection, I will ask you if he said anyone had made it to suit themselves, and if so, what did he say about this?

A. He said Velerie and them fellars made it to suit themselves. He didn't say what fellars.

Q. Now, Mr. Coomer, from the time that you came there and rented the land in the Fall of 1905, did you stay there on the place up to the time of Bass Slemp's death?

A. Yes, sir, I stayed there--lived thereon the place and worked for him.

Q. During all of that time, between the fall of 1905, when you first came there, and up to the time of his death, did he or not ever seem to be himself?

A. Well his mind did not 'pear to be right--like it was before he ever got sick.

Q. Do you know how Harvey Young happened to be there on that day that he made his will.

A. Well, I think Mr. Slemp went after him the day before.

Q. Which Mr. Slemp?

A. Alfred.

Q. Do you know where the deeds that were made on that day--the two deeds and the will that were made in the Fall of --in November, 1905--do you know where those papers remained until Bass Slemp's death?

A. Why, they was there i Suppose.

Q. What do you mean by there?

Q. I mean they was at his place.

Q. Why do you suppose that?

A. Well, his wife said they was.

Q. What did she say that she had done with those papers, and when, did she say she gave them to anybody, if she did say that?

A. By Judge Duncan and Mr. Irvine. This question and the one preceeding objected to because hearsay.

A. How as it you said?

Q. I asked you what she said she did with the will and deeds?

A. She said they was there, and they had ^{given} ~~given~~ them that same evening that he was buried and lost them.

Q. Given them to whom?

A. Sam Slomp, I think it was.

Q. Who is Sam Slomp?

A. That is Dave's son. I think she said they had given them to him, and they was lost. Reasor's boy found them.

Q. What boy was that?

A. That was Ho p Reasor's little boy.

Q. What is his first name?

A. Olden Reasor, I believe is his name.

Q. Were you present in the fall of 1905 when John Gilly purchased some cattle of Bass Slomp?

A. Yes, sir, I was there at the time. Eat dinner there.

Q. With whom did John Gilly make that trade for those cattle?

A. Why, he traded with Mrs. Slomp, I suppose.

Q. Were you present at the time the trade was made?

A. Well, I was there when he said he would take the cattle, I know. Me and Mr. Slomp both there--Alfred.

Q. Mr. Alfred Slemp there too?

A. Yes, sir.

Q. You have said he traded with Mrs. Slemp, you suppose.
Why do you suppose that he traded with Mrs. Slemp?

A. Well, I reckon it was because he was so forgetful.

Q. Who did the talking about this trade, did Bass Slemp do the talking, or did his wife do the talking?

A. His wife and Mr. Gilly done the most of the talking.

Q. Was this before or after he made his will?

A. That was after he made his will.

Q. How long afterwards?

A. Well, I don't know esactly how long. I reckon it was the Fall before he died.

By Judge Duncan:

Q. The cattle trade then was next ~~fall~~ year, that was next Fall. He made his will one Fall, and died the next Fall. The cattle ~~a~~ trade was the same fall that he made his will was it?

A. It was along in October, I reckon, he bought them.

Q. The October just before he died was it?

A. Yes, sir, I reckon it was.

Q. Well, where was the trade made?

A. It was talked right in there at the table at dinner.

~~At that time the price was agreed on then.~~ Price agreed on then.
If they had traded any besides that time, I had never heard of it.

Q. The trade was made then at the table at dinner?

A. I suppose it was. Gilly and Mr. Bales were there--

Q. Who priced the cattle?

A. Mr. Slemp wanted four and a quarter or four and a half, I believe, Mr. Gilly said that was all he was gettin for his'n. Finally his wife told him he could have them for four cents. Mr.

Gilly pawned his honor that was all he was gettin for his'n, and she heard after that that he was gettin four and a quarter or four and a half.

Q. It was Mr. Slemph, himself, that priced the cattle was it?

A. Well, he told Gilly he could have them, I believe it was first four and one half.

Q. At the time this will was made where were you living?

A. I was living over on his place over this way.
Something like a mile I guess away from his home place.

Q. What time in the morning did you go over there?

A. I went over tolerably early.

Q. What did you go over there for?

A. Well, I worked for him. When I didn't work there, I went over after milk--carried Milk from there.

Q. Did he transact any business along about that time?

A. Any which?

Q. Business?

A. Well, I don't know as he did.

Q. Who did you consult about the work?

A. Well, his wife kept the books. She always kept them though.

Q. Who directed you what to do?

A. Well she did, and he did, part of the time.

Q. He would tell you what horse to plow wouldn't he?

A. No, sir, never did.

Q. Tell you what field to plow?

A. How was that?

Q. He would tell you what field to plow wouldn't he?

A. Well, I know'd what field to plow. I had rented from his wife and know'd where to go.

Q. That was when you were working for yourself?

A. I was there on the place when I was working for myself, and when I was working for him.

Q. You say that on that morning he told you to go over for Mr. Clarkston?

A. Yes, sir.

Q. Did he tell you what he wanted with Mr. Clarkston?

A. He didn't but his wife did.

Q. What were the words he used to you when he told you to go after Mr. Clarkston?

A. He said he wanted me to go over and tell Mr. Clarkston to come out there.

Q. And you went?

A. Yes, sir, I did.

Q. And, did Mr. Clarkston come back with you?

A. No, sir, he did not.

Q. Well, what time of the day was that?

A. It was early in the morning, eight or nine o'clock, I guess. Might have been ten--know it was away before dinner.

Q. After you got back what did you do then

A. Well, I stayed around there a while, and went on, and then went on to the corn shucking.

Q. Where was the corn shucking?

A. It was at Hop Slempe.

Q. Did you stay there until Will Slempe and Doctor Edmonds came?

A. No, sir, I don't believe I did.

Q. Bass Slempe had no children, did he?

A. No, sir, I suppose not.

Q. And he and his wife attended to the business of that place together all of the time you knew them, didn't they?

A. Yes, sir.

A. Yes, sir.

Q. And in the latter years of his life, did Velerie pay any more attention to his business than she had during all of the time that you knew him?

A. Well, she see'd after him more.

Q. How was his health along about that time, good, or bad?

A. Which time.

Q. About the time the will was made?

A. 'peared like his mind--

Q. What was his health was what I asked for?

By Mr. Bullitt: I think the witness has the right to answer the question in the way he started to, because the condition of one's mind is a part of one's general health, and shows what his health is.

By Judge Duncan: I don't want to reply to Mr. Bullitt:

Stenographer here reads again to the witness the question and the witness answers as follows:

Q. What was the condition of his health along about that time?

A. You mean what ailed him?

Q. I want to know whether he was sick, or well, strong or weak, hearty or otherwise?

A. Well, of course, he wasn't well.

Q. Was his appetite good?

A. I wasn't any doctor, couldn't tell you that. I suppose he eat some.

Q. Did he eat heartily or otherwise?

A. Well, he eat tolerably hearty, yes, sir.

By Mr. Irvine.

Q. You tended the crop on his place the same year that he died, I believe, didn't you?

A. Yes, sir.

Q. You didn't tend it as a renter the year before he died,-- that is, the year the will was made?

A. Well, I lived there on the place a year after the will was made. I think he lived after he made his will, either a year and one day, or a year and two days, somewhere right close. I was there on the place and made one crop there. I was there off and on all of the time. Cut all of his stovewood there. Would do little things there for him and his wife.

Q. You cut corn for him, as I understand, the same fall that he made his will?

A. Yes, sir, same fall. I moved there in the fall along about cornshucking time, when he made his will. I cut corn there that fall, and I moved there after we ~~gubbin~~ got done cutting the corn.

Q. You moved there then in October, or about that time?

A. I don't know esactly, I believe it was in September, I moved there. I know I helped in cutting up corn on the place before I moved there.

Q. Was you there in July?

By Mr. Bullitt: You mean July before the will was made?

A. By Mr. Irvine. I mean July of that year.

A. Well, I don't knowe- I lived right close there all of my life. All of the time I lived there, except this year in Wise, or eighteen months. Raised on the place there.

Q. Do you know wheter he had a sick spell in July, or not?

A. Well, I don't recollect.

Q. When was the first sick spell you remember of his having?

A. Do you mean down bed fast?

Q. Yes, sir.

A. Well, I believe it was along about wheat thrashing time he was taken, but I don't know what month it was in when he commenced.

Q. That was the first sick spell you remember of his having?

A. Yes, sir. First bad spell I mean.

Q. How long was he sick in bed then, if you know?

A. Well, I don't know, esactly how long. I come there to see him. I saw him before he ever got sick, and he said he wanted me to cut some bushes for him. I was away then about a week, and when I come back over there he was in bed sick. I went there and spoke to him and he seemed to be pretty bad off, and I never said anything about cutting the bushes to him.

Q. Was he sick a week or two?

A. Well I don't know esactly how long, he laid there in bed. I believe the next time I come back to see him he was sitting up. He never did lay in bed hardly any at all.

Q. After that did he get about, and attend to the farm and other matters there?

A. He would go around, 'peared like he was forgetful. 'peared like he would be talking to you one minute about something, and then fly off onto something else--never did lay in bed very much.

Q. That forgetfulness came on him more in the last year of his life, didn't it?

A. Yes, sir.

Q. He was not very forgetfull up to the time that he made his will?

A. You mean before he made the will?

Q. Yes, sir.

A. No, sir.

Q. After the spell of sickness that he had about wheat thrashing time, did he have any other sick spell that you know of before he made his will?

A. No, sir, I don't recollect.

Q. Was he sick that you know of about tax paying time, about the time the tax collector set for collecting down at Olinger along the last of October, sometime?

A. Well, I forget whether he was or not,--seemed to me like he was though.

Q. That was not much of a spell if he had any then was it?

A. I don't recollect--that was the same year he made his will wasn't it? .

Q. Do you know what occurred over there?

A. I don't know, sir, I never went.

Q. You were living on his place wasn't you?

A. Yes, sir.

Q. You saw him when he came back and a day or two after that didn't you?

A. Yes, sir, I believe I saw him?

Q. Was he all right then?

A. Well, I think he was. 'Peared like he was forgetful as I tell you--peared like he was just forgetful or something that way.

Q. That forgetfulness was worse along after he made his will, and from that time on until he died?

A. Well it was badder after he made the will than before.

Q. You wouldn't say that it was very bad that summer and fall before he made his will? Along in the Summer at Wheat thrashing time, and on up until the time that he made his will?

A. Well, I don't know as there was much difference in it.

Q. May be one day talk all right, and miss nothing about like he always was. 'Peared like at times he was forgetfull trying to call things and couldn't, you know.

Q. That was the only thing you noticed was wrong, Mr. Coomer, forgetfulness?

A. Yes, sir. I don't say he was crazy at all.

Q. When he talked about farm matters would he talk like an ordinary man?

A. Well, to tell the truth about it, he never talked much. Never talked so powerful much.

Q. He always knew what stock he had, and what crops he had and everything of that kind during that period didn't he?

A. Yes, sir, I suppose he did. He knew his cattle.

Q. How do you know he knew his cattle?

A. Well, we went to salt them one time, and he missed a steer that had fell in a cave. I kept from telling him about three months--didn't want to tell him. I told his wife, the morning he found it out.

Q. When he found it out--tell about that?

A. Well, we went over to salt, and there was so many cattle in one pasture, and one gone, and he knew it was gone; the one that had fell in the cave, and we put down some salt, and we sat down for a few minutes--I believe he called my name, and says, "Will, lets go over the hill and hunt the other steer." I told his wife that morning that I know'd I would have to tell him, and I had to. He says: "Will lets go over the hill here and hunt the steer." I says, Bass, it fell in that old cave. "What", he says, I says: "Yes, sir". Well, he says, "I have lost that steer clear havent I" I says; "yes, sir." "But it aint worth while to grieve after it it is gone now." We went on out towards my house, on out there and we salted them, and then we went on back home.

Q. Did he tell you which steer it was?

A. Yes, sir, he told me which one it was and all.

Said it was a little white looking steer he got of Alfred.

Q. That was correct, wasn't it?

A. Yes, sir.

Q. How many steers were in that pasture?

A. In that field where me and him salted--well, I believe there was five.

I think it just left four. I believe there was five in there before that one fell in the case. I think there was five there before that, and he missed the steer and caught on to it.

Q. Did he tell you that knocked the profit off of all of them?

A. No, sir, he didn't tell me that. He just said he lost that steer clear.

Q. This was the same year that he died wasn't it--a short time before?

A. Yes, sir. That was in the Summer like--I suppose he died the next Fall.

Q. Now, on the day that he made his will, he asked you after you come back from Mr. Clarkston's if you had gotten those fellars off of the train, did he?

A. Yes, sir.

Q. Did he refer to Doctor Edmonds and Will Slemph who came down on the train to hunt?

A. I don't know whether he did or not. I asked him what fellars. I said I went after Mr. Clark for you. He says, "Oh, that is right, I was mistaken, I had forgot."

Q. Will Slemph and Doctor Edmonds did come down on the train that morning to hunt, didn't they?

A. I don't know whether they come down or not, they was not there while I was there.

Q. Didn't you go over there that morning before day?

A. Well, it was light when I got there. He and his wife had both got up already.

Q. Along up that time was the shortest days in the year, wasn't they?

A. Yes, sir.

Q. They got up tolerably early?

A. Yes, sir.

Q. When you asked him for the dollar, was that when you first went over there?

A. Well, his wife was out milking when I got over there.

Q. When you asked him for the dollar, wasn't it dim light and before ^{full} day?

A. Well, it was not very good light.

Q. Mr. Slomp never talked much to you about his business did he, while ~~u~~ you were there?

A. Oh, not particular. He would talk around a right smart. I wouldn't never ask him any questions about his business though.

Q. You never took the idea that he was crazy, but that he was forgetful?

A. No, sir, I wouldn't say he was crazy--peared like he was forgetfull.

Q. You have seen other old men get forgetful haven't you?

A. I don't suppose he tried to kill anybody. I was there as much as anybody, and he never said anything out of the way.

Q. Just forgetful--a;; you saw wrong with him was it?

A. Yes, sir.

Q. You have said, I believe, that all of the time for years before this, his wife helped him in looking after and managing the place?

A. Yes, sir. She worked too.

Q. It was about as near a partnership place in management, as any husband and wife you ever saw, wasn't it?

A. Yes, sir.

Q. They always worked in perfect harmony, and together about the matters?

A. Yes, sir. they was both good workers and goodmanagers too.

Q. Then it was nothing unusual if he was in bad health for

her to do the most of the managing was it?

A. No, sir.

Q. She had always helped him about his sales and cattle trades and conferred with him about them?

A. I suppose she did. Never asked them any questions about their business that way.

Q. When you rented that year, had Mr. Bass Slomp previously rented the place to Hop Slomp--the place you got?

A. Well, he said something or other about Hop had wanted it.

Q. And hadn't he gone himself and seen Hop and got Hop to give it up to you?

A. Yes, sir. Before I rented of him, he told me he had to go and see Hop. I don't think Hop wanted to move over to his house. I think he wanted to raise chickens over there. He told me he would go and see Hop, and I reckon he did. He let me have the house.

Q. Well, he seemed in his perfect mind about attending to that didn't he?

A. Yes, sir.

Q. Did he not in all of his business matters, clear up until after he made his will, and until shortly before his death show good sense and good judgment?

A. Well, he did--only he was forgetful--all I ever saw. 'Peared like he would try to speak things and couldn't. He was forgetful.

Q. The last year of his life, from the time he made this will on until he died, did he lay in bed much?

A. No, sir, he didn't lay in bed much, scasely any at all. Sometimes--he had a sheep skin he would lay down and may be lay a little while on it. Hardly ever lay in the bed any at all scasely.

Never saw him in the bed many times there.

Re-direct examination by Mr. Bullitt:

Q. You are no doctor and don't know what it takes to make man crazy do you?

A. No, sir, I do not.

Q. Would you undertake to say that Bass Slemm was not crazy?

A. Well, I don't know, I never saw a crazy man. I wouldn't know how--he was forgetful about all that I could say.

Q. You don't know whether he was crazy or not?

A. No, sir, I do not?

Q. Your idea of a crazy man is that it is a man who is dangerous, isn't it?

A. Yes, sir.

Objected to by Judge Duncan because leading.

Q. State what your idea of a crazy man is?

A. Well I should think a crazy man would try to kill a body or something that away.

Q. Now, I want to ask you again about Bass Slemm from the thrashing time before he made his will on up to his death, about his talk?

A. Well, he would kinder be a talking to you, may be a talking to you in good sense, and then get off on to something else a fellow would not be thinking about.

Q. When he would get off onto another subject, would there be any good sense in that or not?

A. Well, I couldn't say that it was.

Q. What I mean to ask you is whether he would be talking to you about one subject with good sense, and then fly off onto something that didn't have any sense in it?

A. Yes, sir.

Q. Please state whether that indicated to your mind that he could not keep his mind on one subejct for any length of time?

A. No, sir, he couldn't.

Q. Now, from threshing time on up to the time of his death, ^{that} ~~what~~ was his condition generally, that is, from thrashing time in 1905?

A. Yes, sir, I reckon it was.

Q. Now, you have stated in answer to one of Mr. Irvine's questions that his condition seemed worse after he made his will than before; I will ask you how his condition seemed on the very day that he made his will?

A. Well, 'peared like he was forgetful, called things 'peared like was wrong. Just as I tell you about, he asked me did I get them fellars off of the train? What fellows? You know, the fellows you went after. I says, "I went after Mr. Clarkston." He says, "Oh, yes"." I see now" I never said he was crazy. Never saw a crazy man--wouldn't know--

Q. Well, on that very day was his condition better or worse than it had been, or than it was after that time?

A. Well, I don't know as it was.

Q. What do you mean, by "don't know as it was"?

A. I mean, don't know as it was any worser than it was.

Q. Was it any better than it was after that time?

A. Well, I don't know that it was.

Q. You have stated to Mr. Irvine that you didn't tell him about the stwer having fallen into the sinkhole. Why didn't you tell him about that?

A. His wife said not to tell him--'peared like everything bothered him, and she didn't want him to know. Might make him worser. Kept me from telling him.

Q. When he went away from home, state whether or not Mrs.

Slomp took any precaution to have any one go with him or not, and if so, who?

A. Yes, sir, when she could get anybody, she would get somebody to go. I went with him several times, and my brother went with him several times.

By Mr. Irvine Re Cross Examination.

Q. Was anyone sent away from home with him at any time before he made his will, Mr. Coomer, or was that afterwards?

A. Well, I don't know about that---I didn't pay much attention to that.

Q. The day he went down to pay his taxes at Olinger he went by himself didn't he?

A. Yes, sir. He went by himself that day.

Q. Can you recall any time that fall that you or your brother or anyone else went with him?

A. Why, we would go about with him on the place, about the cattle and around through the fields that way. As to going away off, we never went anywhere. About Olinger as far as he ever went, and he come up here once.

Q. That was a long time after he made his will wasn't it?

A. Yes, sir.

Q. Do you think you can recall the time any of you had to go any place with him before he made his will?

A. No, sir.

Q. All that came up long afterwards--the summer and fall before he died, didn't it?

A. Yes, sir.

Q. And most of this flightiness of memory came up long afterwards, along the last few months of his life, didn't it?

A.

A. Some of it. Like I told you--at times he was worse about it. 'Peared like he was forgetful, something that way.

Q. Can you read and write, Mr. Coomer?

A. No, sir, I cannot.

Q. Do you know the difference between bills of money, a one dollar, five dollar or ten dollar bill?

A. Yes, sir.

Q. You can tell the difference then?

A. Yes, sir.

Q. You are certain that was a five dollar bill and not a one dollar bill?

A. Yes, sir.

Q. Did he have any other bills of money?

A. Well, I never saw any others.

Q. Where did he go and get this bill?

A. He had it in his pocket.

Q. In a pocket-book?

A. No, sir, just stuck down in his pocket.

Q. Pulled that one bill out and no more?

A. No, sir, I didn't see any more.

Q. Just pulled it out and handed it to you, did he?

A. Yes, sir.

By Judge Duncan, of Counsel for Defendants.

Q. You say that in the Fall just before he died, Velerie, his wife, sold the cattle?

A. Well, I heard them both talking in there. He might have had them contracted before that. Gilly and Bales were there. I heard him tell her that he wanted four and one half cents, and I think he let him have them finally for four cents.

Q. Who sold the cattle the fall before and to whom were they

sold?

A. The Fall before his will was made?

Q. Yes, sir.

A. I don't know who sold them the fall he made his will.

Q. Don't you know that Bass sold them himself, and to John Gilly?

A. I know Bales got them there, him and Gilly together, after he made the will, but I don't remember about the fall before he made the will.

Q. Don't remember who did get them that year, nor who sold them?

A. I know'd of them selling one year to Bales--Bales got them.

Q. That was just before he died wasn't it?

A. Yes, sir.

Q. Now, it is the Fall before that I am asking about, just a little while before the will was made. Do you know who bought them and who sold them that year?

A. No, sir.

Q. Now, what year was it that that steer fell in the cave? Was that the year he died in?

A. Yes, sir.

Q. Now, you say that Mr. Slemph was forgetful, that he would be talking seemingly with good sense, and would suddenly turn to something else that had no sense in it. Do you recollect of any circumstance in which he did that?

A. In which he had talked--

Q. Yes, sir.

A. We went down to Olinger one evening, and he asked--said "I thought I would come down to see how they were getting along on that new line of railroad."

and there was no new line of railroad there.

Q. When was that?

A. Right smart bit after he made the will.

Q. If you know of any instance at all before that will was made, in which he was talking with good sense on some subject, and then would suddenly turn off to something else that had no sense in it, state when it was, where it was, and what it was he was talking about?

A. Well, that is about all.

Q. You can't recollect a single instance can you?

A. Not only what I told you about the new railroad.

Q. Well, but that was after the will was made, you said?

A. Yes, sir, after the will was made.

Q. Well, did you ever know him to make any mistake in the transaction of his business up to the day he made that will?

A. Well, I don't know as I did.

Re-Direct Examination by Mr. Bullitt:

Q. Mr. Coomer you have stated that you could not give an instance, or couldn't remember just exactly what he said at different times when he would be talking sense, and then fly off to talking nonsense, I will ask you can you not remember that he would often do this, although you can't remember what he said?

A. No, sir.

Q. What do you mean by that?

A. I said I couldn't remember--

Q. You mean you couldn't recall exactly what was said?

Can't you recollect that he frequently would do that, without being able to remember what he said?

A. No, sir, I believe not.

Q. From the time--harvesting time in 1905, on, I believe you have stated that he appeared to be not himself?

A. No, sir, 'peared like his mind was not like it was before he was sick.

Q. From that time on did he have this habit, of being talking about one thing with good sense, and then suddenly commence talking about something with no sense in it?

A. Yes, sir.

Q. There is one question which I forgot to ask you? What was his condition for the two or three weeks just prior to his death, and at the time of his death? ~~what was it?~~

A. What he done?

Q. What was his mental condition?

A. Just set about and not much to say.

Q. During those last two or three weeks, did he, or not, seem to have any mind?

A. 'Peared like his mind was in pretty bad shape--did not have much to say at all.

Further this deponent sayeth not.

Signature waived.

Also the deposition of W. A. Ward, who being first duly sworn, deposes as follows:

Direct Examination by Mr. Bullitt:

Q. State your name, age, occupation and residence?

A. W. A. Ward, age, 55, occupation, farming.

Q. Residence? Where do you live?

A. Turkey Cove.

Q. How far do you live from where S. S. Slemp, commonly known as Bass Slemp, lived during his lifetime?

A. Well, sir, I couldn't tell exactly, it is I guess a little over a half a mile.

Q. Did you know Bass Slemp in his life time?

A. Yes, sir.

Q. How long did you know him before his death?

A. I don't know--I reckon we was sorter boys raised up together--I have known him a long time.

Q. Did you rent any land from him prior to his death?

A. I rented land of him for five years I reckon. Tended his land for five years.

Q. How close was this land to Bass Slemp's house?

A. Some little ways off--right smart piece from the house, some lay right close to the house.

Q. How often did you see Bass Slemp during the last two or three years of his life?

A. I couldn't tell you--saw him a good many times. Couldn't tell you the number of times.

Q. Well, did you see him every day or two, or every week or two, or how was that?

A. Well, sometimes I would see him nearly every day while I was at work there passing around and see him but I could not say that I seen him every day the year round.

Q. Did you notice any change in his mental condition several years prior to his death, and if so, state about how long before his death you did notice a change in him?

A. Well, sir, I think about three years before his death I could tell a difference in his talk--in conversation with him.

Q. State whether he seemed to get better or worse from the first time that you noticed this change on up to the time of his death?

A. Why, he seemed to be worse at times.

Q. State what was peculiar in his talk that would attract your attention?

A. Why, I don't know that I could tell you particularly now, more than I went there once to buy a cow of him, and we went out into his cow lot, and I picked out the cow I wanted to buy and asked him a price on it. He says, I don't know--he says she is a mighty good cow. He says, I forgot everything last Fall that I ever know'd, and have never know'd anything since.

Q. When was that that you had this talk about the cow with him?

A. It was in the Spring before he died that Fall.

Q. Do you remember going over to rent some wheat land from him the the Fall of the year before he died?

A. Yes, sir. I remember him sending for me to come over--he wanted to rent to me, and I went over and he seemed to be--his mind seemed so we didn't trade at that time, and I went back and traded with him after that.

Q. What time of the year was this that you first went to trade with him about the wheat land?

A. Well, I don't know as I could tell you exactly, somewhere along about the last of September, or the first of October. Long about wheat sowing time.

Q. At that time, state how he talked, that is, could he talk sensibly on any subject for any length of time, ~~or how~~ or how was that?

A. Well, I was not with him but just a little bit at that time, and he did not seem to talk anyways sensible about the renting matter, that was what I talked to him about, and I told him that I would come back at another time.

Q. From that time on up to the time of his death, was there ever a time when he seemed to be able to talk sensibly for any length of time on any one subject?

A. Well, while I talked with him his mind seemed to come and go--talk about different things, but I never was with him long at a time, and I couldn't state how his mind was the day through. Wasn't there with him all day.

Q. Did you see him numerous times between that time that you went to rent the wheat land from him and the time that he died?

A. Yes, sir.

Q. Well, now, what I want to know is, whether at any of those times that you saw him he seemed to be himself?

A. Well, yes, sir, for a while he would be.

Q. He would seem to be himself for a while?

A. Yes, sir.

Q. Then, state whether or not, before you would leave him, he would commence talking foolishly again?

A. Well, I could not state that he done that everytime I talked with him, because, I didn't talk with him sometimes but just a little bit at a time. Other times may be talked longer. Good deal of the time his mind seemed to get off onto something else.

Q. Whenever, after that time, you were talking with him for any length of time, would his mind seem to go off onto something else you were not talking about?

A. Yes, sir.

Cross-Examination by Judge Duncan, of Counsel for Defendants.

Q. When was it that you rented this wheat land from him, what year?

A. Well, sir, I rented of him for five years right straight along. I reckon I tended his land there for five years.

Q. When was it that you rented this wheat land from him that you have been talking about in your examination in chief?

A. That I went to him about--that he sent for me, and I went to him and he didn't rent to me?

Q. Yes, sir.

A. I think it was the fall before he died, I believe.

Q. How long was it from the time you first went there when he sent for you until you did rent it?

A. Well, I couldn't tell you--don't remember exactly the time.

Q. About how long?

A. Well, it was not over a week or two, I don't reckon, because it was wheat sowing time, and I wanted to sow the wheat.

Q. And when you went back to him the first time, you found him all right and capable of transacting business?

A. I found him so that I did rent from him.

Q. Well, didn't you think his mind was in a condition that he was competent to rent to you that day?

A. Well, I suppose it was or he would not have rented to me.

Q. You thought at the time he rented to you that he was capable of making a contract, didn't you?

A. Yes, sir, I made a contract with him.

Q. Would you have rented the land of him if you hadn't thought he was capable of making a contract?

A. No, if he hadn't been capable of making it he wouldn't have made it.

Q. Would you have rented from him if you hadn't thought him capable of making a contract?

A. No, sir, I would not.

Q. You state, if I understood you correctly, that you thought you noticed a change in his mind about three years before he died?

A. Yes, sir.

Q. Would you think that change in his mind that you have mentioned rendered him incompetent to transact business?

A. No, sir, I suppose he done his business all right--all of his trading.

Q. You never heard of his making any mistake in his trading during that time did you?

A. No, sir.

Q. Now, was it just the Spring before he died that you went there to buy a cow from him?

A. Yes, sir, Spring before he died that fall.

Q. Was he well that day?

A. Was he well?

Q. Yes, sir.

A. Well, he went to the field with me to see his cows. He complained of not being well all along for twelve months before he died.

Q. Was he complaining any that day?

A. Yes, sir, he said he didn't feel well.

Q. And he said he had forgotten everything since last Fall?

A. When I asked him to price the cow, he says "she's a

mighty good cow", he says "See, I'll tell you I forgot away last Fall everything I ever know'd, and can't recollect anything since"

Q. It was with reference to the price of the cow--when you asked him the price of the cow that he used that language, that he had forgot everything last Fall?

A. Yes, sir.

Q. Was you cultivating his land the year he died?

A. Yes, sir. I had corn on his place, and sowed wheat on his place that Fall. I had wheat sowed when he died.

Q. And was cultivating corn on his land that same year?

A. Yes, sir.

Q. When did you make the trade with him for renting the corn land?

A. I generally rented of him in the Fall.

Q. That year do you remember whether you rented after he made his will, or before?

A. I don't remember whether before or after.

Q. You can't remember what month it was that you rented of him?

A. No, sir.

Q. Whether it was December, November, or October?

A. No, sir, I couldn't state as to that--what month it was.

Q. At the time that you rented that corn land from him for the next year, did you think he was capable of transacting business

A. Well, sir, I wouldn't have rented of him--It seemed at times that he was all right.

Q. You didn't see him on the day he made those deeds and his will?

A. No, sir, I didn't see him.

Q. Then, if I understand you, sometimes he appeared to be in a worse condition than at other times?

A. Yes, sir.

Q. And at these times when he appeared to be in a bad don-

dition would he transact any business?

A. Never did with me.

Q. Did you ever know of his transacting any business when he was complaining that way?

A. No, sir.

Q. His health was not good for a year or two before he died?

A. No, sir.

Now, we went back to him after I tried to buy this cow sometime afterwards, my wife with me, and he went out into the fields with us, and he priced the cow that time to me.

By Mr. Irvine.

Q. Was it a fair price for the cow?

A. It was big enough. He asked me thirty five dollars for her.

Judge Duncan:

Q. Did you buy her?

A. No, sir.

Q. His health was not good for a year or two before he died?

A. No, sir, I think not--complained a good deal.

By Mr. Irvine:

Q. Mr. Ward what makes you put the time that you first noticed trouble with Mr. Slemph at three years before he died?

A. Well, sir, I could tell the difference in his talk then.

Q. But I mean, how can you tell now at this late date that it was three years, instead of two years or one year?

A. Well I was trading with him and talking with him often.

Q. Do you think it was more than a year or a year and a half before he died that there was any change come over him that you could notice?

A. Yes, sir, think it was longer than that.

Q. Could you be positive about three years?

A. No, sir, I said I thought it was about three years.

Q. That would be about five years from now?

A. It would be five years I reckon this Fall.

Q. Right hard to remember those things that far back unless you have some particular circumstance to call your minds attention to it?

A. Yes, sir, I reckon it is.

Q. Do you recall any particular ~~instance~~ circumstance?

A. Nothing only renting of him--that was all I had to go buy. I had been renting of him for five years;--tended his land for five years.

Q. What was the first thing that came up that you can recollect that made you think that his mind was wavering?

A. I don't know as I could tell you what was the first thing. I can't recollect what all we talked about.

Q. Was there anything about your renting contracts?

A. I don't recollect,--don't remember whether there was or not.

Q. Didn't he talk straight and like a business man whenever you went to him about making land contracts up to that time that you mentioned here?

A. Probably talk all right for a while--but then he would go off onto something else you hadn't thought about, I think about that time.

Q. You can't remember then what first called your attention to his apparent change?

A. No, sir.

Q. Well, now did you think it was anything more than a bad memory about things?

A. That is what I thought about it at the time.² His memory seemed a little flighty--that was about all I could note.

A. Yes, sir.

Q. Was not that about all you could notice up to the last few months of his life?

A. Well, it seemed to get worse.

Q. Got worse the last year of his life?

A. Yes, sir.

Q. So far as you know about the time he made his will, he was in a usual good state of mind and health, as much so as he had been for some months before?

A. Well, sir, I expect he was--I couldn't tell you just about the time he made his will.

Q. He made his will on the 21st day of November, you don't recall anything now that made you think he was particularly bad or ~~any~~ worse at that time do you?

A. No, sir.

Q. Then he got some worse during that time--between that time and the time of his death--the last year of his life?

A. Yes, sir. At the time I went there to buy this cow was in the Spring before he died in the Fall. Time he handled the talk to me about the cow.

Q. I take it from what you say that on every occasion that you talked with him he talked part of his talk all right, is that true?

A. Yes, sir.

Q. And he would talk for some little time on a subject all right, and then his mind would go off?

A. That was the way he talked about the last year.

Q. If you talked too long on the same subject his mind seemed to fag and wander?

A. Yes, sir.

Q. In other respects he seemed to be all right, didn't he?

A. Was so far as I know.

Q. You wouldn't think of putting him down as what you call a crazy man, would you Mr. Ward?

A. No, sir, I couldn't count him that.

Q. Havn't you seen many an old man getting weak minded and weak memory, and nothing ever thought of it?

A. Well, I don't know that I ever talked to a man that would change the subject the way he did towards the last twelve months of his life. Don't know that I ever talked to anybody else. I suppose old people's mind does get wrong very often.

Q. It was only just occasionally that you ever saw him that you thought he was not in a fit condition to transact business?

A. Yes, sir.

Q. Was it more than two or three times?

A. Several times--I can't recall how many.

Q. You mentioned two I believe, wheat renting time, and the time you went to buy the cow, can you recall any other?

A. I could tell you some talk he handled the fall we sowed wheat before he died.

Q. What talk did he handle at that time?

A. I was sowing wheat and he came up where I was, and he says I can't stand up Ward, I will just sit down. I sowed wheat on a while and went down to where he was, and got to talking with him, and my wagon was standing close by, and he said whose wagon is that, and I says, it is mine. He says, reckon that old wagon will bear up two loads ~~of~~ over ~~to~~ there and back,--never said what he wanted to ~~tm~~ haul, or where he wanted to go nothing about it. He says, it is the very wagon I have been looking for a long time.

Q. You didn't understand what he was talking about?

A. No, sir, I didn't know what he meant by it, never said what he wanted to haul or where he wanted to go to or anything about it.

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Q. He might have had something in his mind, if he had explained it to you was all right?

A. Oh, yes, he might have, I don't know.

Q. That was three occasions that you recall--can you recall any others?

A. No, sir, them was the worst ones that I ever caught him in for the time. Outside of that he would get flighty and talk a word or two on a subject, that was not on the subject we was talking about.

Q. He was always a little peculiar sort of a man in his talking, was he not?

A. I don't know.

Q. Never talked very much to people did he?

A. No, sir, not a great deal, I don't think.

Re-direct Examination.

Q. Mr. Ward you said that you had wheat sown on his place at the time of his death. When did you rent that wheat land?

A. Had rented it that Fall. I rented it of his wife.

Q. Then that was not the time that you spoke of when he sent for you to come over, and you went over and didn't rent from him?

A. No, sir, that was the Fall before.

Q. That was the Fall before?

A. Yes, sir, I think so.

Q. Now, you have said that at times he seemed to be all right, what do you mean by that?

A. Seemed like he had a good mind about him--talking all right about anything you talk to him about.

Q. Well, do you mean that he would seem all right during the whole of the time you would talk to him, or a part of the time?

A. Well, for the last twelve months may be just part of the

time on some subjects, and on some may be he would go through.

Owing to the time you talked to him. I talked to him sometimes for a short time, and then again sometimes long.

Q. If you talked to him for any length of time he would get flighty, is that what I understand you to say?

A. Yes, sir.

Q. Mr. Irvine has asked you to state what particular talks you had with him in which he seemed to be flighty as you have spoken of, and you have stated about three different occasions, can you remember a number of other occasions without being able to state just exactly what passed between you?

What I want to get at is were those three times the only times that you noticed him flighty?

A. No, sir. I noticed him before that but I can't remember what we was talking about.

Q. What I want to know is whether you noticed him flighty on numerous times besides those three?

A. Yes, sir, I noticed his mind wrong several times before these. Seemed to me he talked flighty. Don't know about his mind--reckon it was his mind.

Q. You have no medical knowledge--you don't know just what it would take to make a man crazy do you?

A. No, sir, couldn't tell.

Further this deponent sayeth not.

Signature waived.

Also the deposition of H. C. T. Reasor, a witness of lawful age, being first duly sworn, deposes as follows:

Direct examination by Mr. Bullitt:

Q. State your age, occupation and residence?

A. Forty six years old, occupation Farmer. Residence, Turkey Cove, Lee County, Virginia.

Q. Did you know Bass Slemph in his life time?

A. Yes, sir.

Q. How long did you know him before he died?

A. Well, I have know'd him ever since I know'd anybody--raised up in that neighborhood.

Q. Did you see him at his home about a year before he died?

A. Yes, sir, I think I see'd him three times sometime about a year before he died.

Q. What was the occasion that you saw him on the first of those three times?

A. I just went over there one Sunday evening to see him.

Q. When was that?

A. I couldn't state what year it was in, I know it was just about a year before he died.

Q. What was his mental condition at that time?

A. Well, I couldn't hardly explain it. It seemed to me that he was a little bit strange some way.

Q. What did he do which indicated to you that he was not right?

A. Well, he didn't do anything. He would talk like he always did in his right mind--talk may be for two or three minutes sensible as he ever did--probably quit talking then unless you asked him something or other--may be talk about something else.

Q. You say he would talk three or four words sensible and then change off?

A. Yes, sir, somewhere along there.

Q. Would what he would change off on to have any connection with what you had previously been talking about?

A. No, sir.

Q. How many times did you see him between that time and the time he died?

A. I couldn't say how many times I saw him, except twice I was over there. Once in the Spring of the year, and once some two months before he died.

Q. How was he on those two occasions?

A. Well, he seemed a little bit wrong to me them times that I was there. Some way, don't know just what was the matter with him, whether it was his mind or not.

Q. From what did you judge he was wrong--that is did you come to the conclusion from the way he talked?

A. When I went over there in the Spring to buy some hay of him, I asked him if he had any hay to sell. I believe the answer that he give me was that he didn't know whether he had any hay or not. I didn't say any more then. The girl that stays there Velerie Coomer, come in about that time and says there is hay in the meador if there aint none in the barn. She got to talking about the hay; he said he didn't have no good timothy I believe, so I got up and didn't say anything mor to him about the hay and went off, nor anybody else then.

Q. Why did you get up and leave?

A. Well, I thought he was not capable of making any trade, -- something was wrong and I didn't try to buy nothing from a man talked that way.

Q. Did you think him capable of attending to business at that time?

Objected to by Judge Duncan because leading.

Q. Well, did you or not at the time think him capable of attending to business?

A. Well, I didn't think so--reason I didn't say anything more to him about the hay.

Q. What was his condition at that time as compared with what it was at the time you went over to his house on that Sunday?

A. I thought he was more wrong that Spring than he was the Fall before.

Q. From the Fall of the year before he died up to the time of his death, did you ever see him when he appeared to be his right self?

A. Well, I don't think ~~it~~ I did.

Q. Did you see him at other times than the three times you have spoken of when you saw him at his house?

A. Well, I think I have seen him on the road side--met him out on the road. Don't know how many times I met him. Never paid much attention to it.

Cross Examination by Judge Duncan.

Q. Do you remember what month it was that you went there on Sunday evening?

A. No, I don't remember what month it was, know it was in the Fall some time, but I don't remember what month.

Q. Was it cold weather or warm?

A. No it was not cold weather--we sat out on the poarch--sun was shining.

Q. You just went over on Sunday evening to visit him as one neighbor does another?

A. I just went over to see him--they said he had been puny, and I went over to see him.

Q. Did you find him well, or was he complain~~ing~~ing?

A. He was sitting on the portico when I went. Said he was not well.

Q. Do you remember what he complained of?

A. No.

Q. Well, now on that evening you say you formed the opinion that he was not exactly right?

A. Yes, sir.

Q. What was it that he said or did that caused you to come to the conclusion that he was not exactly right?

A. Well, he didn't do anything,--as to doing anything. I just judged from his talk. He would talk things I had never heard him talk before.

Q. Can you tell the Notary what it was he said that caused you to come to the conclusion that he was not exactly right?

A. Yes, sir, I can tell you some of the other cases. Well, he said he was going to be starved too death, that he couldn't get nothing done. Complained about something or other about that he didn't have no k hogs--that he reckoned he would just starve too death.

Q. Was not that the common talk when he was talking about his own affairs from the time you first knew him. Wasn't he always complaining that he wasn't making no money, going to starve to death and words of that kind?

A. I don't know as I ever heard him talk about starving? I have heard him say before that he wasn't making any money on something he had bought, or something of that kind.

Q. Wasn't he always regarded as a stingy, close man, and always claiming that he was doing no good. Was not that his general habit?

A. Well, I believe that was they way he would do--he was a very close man.

Q. The next time that you saw him was in the Spring of the year when you went there to get some hay was it?

A. Yes, sir.

Q. Do you know what the condition of his health was at that time?

A. Nothing, only what I could look and judge myself, would be all.

Q. Did he appear to be well?

A. No, sir, he didn't appear to me to be well.

Q. Was he complaining any that time of feeling badly, headache, or anything of that kind?

A. I suppose I asked him how he was--don't remember now, much, was just sitting about.

Q. Well, on that occasion he told you he didn't know whether he had any hay or not?

A. Yes, sir.

Q. Do you remember whether he told you he did not know whether he had any hay, or that he did not know whether he had any hay to spare?

A. No, he said I don't know whether I have got any hay or not.

Q. Then when the girl told him there was hay down in the meadow, he told you there was no good timothy hay down there.

A. Yes, sir--waited along a right smart bit before he said anything about hay or anything else after the girl said there was hay, and he says "We have got no good timothy hay", and after he said that I stayed a little while and didn't say anything more about the hay.

Q. The next time that you visited him was a couple of months before he died?

A. Somewhere about that time.

Q. Did you have any conversation with him at that time?

A. Yes, sir,--talked with him a little.

Q. How was his health then--feeble or otherwise?

A. Seemed to me like mighty feeble--seemed to me that way.

Q. Do you remember or know anything about the time he made these deeds and his will?

A. Well, I don't know whether he ever made any--just what I heard people say.

Q. Now, was this first visit before or after you heard ~~these~~ deeds were made?

A. Which?

Q. Your first visit that you have spoken of, did that occur before or after you heard that he had made some deeds and his will?

A. Well, I couldn't tell you Judge, I don't know as I heard about him making any deeds or will until up in the winter some time--possibly up toward Spring before I heard anything about him making any.

Q. You didn't transact any business with him on that Sunday evening that you have spoken of?

A. No, sir, didn't go for any business.

Q. Did you talk to him any about his cattle, or any other kind of business?

A. Well, I didn't talk anything much at all. Seemed not to want to talk much that evening. Probably would talk something about cattle and things. He did not seem to want to talk about anything much. Don't remember exactly what we talked about. Never talked about anything very much.

Q. Have you got any interest in this controversy?

A. Not a thing in the world. I hate I was brought into it. It is not my own fault that I was brought into it.

Q. Your mother-in-law is one of the parties bringing this suit, isn't she?

A. I don't think she is--I don't know--she may be--don't know anything about the suit. As I understood it she was not in it.

Q. By Mr. Noel: What relation is your mother-in-law to Bass Slemp?

A. Brothers and sisters I think.

Q. And your wife is till living?

A. Yes, sir.

Re-direct examination by Mr. Bullitt:

Q. Who was your mother-in-law, Mr. Reasor?

A. Mrs. Barker--John Barker's wife.

Q. You have said that on the occasion when you spoke about buying the hay that Mr. Slomp made no answer for some time--how did he seem on that occasion? Did he seem to be in a stupor or not?

A. Seemed to be in a kind of stupor. Just sitting about--not paying any attention much to anything or anybody.

Q. How did he seem on the Sunday evening, the first visit you made, with reference to whether he was in a stupor or not?

A. Well, he seemed that way then. Seemed not to want to talk much. Sometimes talked a few words very sensible--seemed like studying about something, then go to talking may be about something else.

By Mr. Irvine:

Q. It was his memory--that was his main trouble wasn't it?

A. I don't know Mr. Irvine what.

Q. He never took up any dislike to anybody, or any violent prejudice when he was in that fix that you say?

A. No, I don't suppose he did. I didn't see anything of that kind.

Q. He treated you and others so far as you know ~~in~~ just as he always did, barring only that he couldn't remember the connection between things right?

A. Yes, sir, as far as treatment was concerned, when I was there, didn't see anything wrong about that.

Q. The only trouble seemed to be loss of memory and connection between thoughts?

A. Well, I couldn't say--something wrong with him some way. I couldn't say what was wrong with him. He would talk a little and then stop, and you would start up a conversation and he would go on and talk on something different from talk you began on for a few minutes,--then he would get to talking may ^{be} about something else you hadn't thought about.

Q. You have named three occasions ⁱⁿ that ~~xxx~~ last year of his

~~Further~~ life. You saw him more than on those ~~two~~ ~~or~~ three occasions didn't you?

Q. Well, I would meet him out at times.

Q. You never noticed anything wrong with him when you met him out did you?

A. Well it seemed to me like the last year or two before he died, seemed to be a little wrong some way, was not like he always was.

Further this deponent sayeth not.

Signature waved.

Postponed by agreement to a future day and place, to be hereafter agreed upon between Mr. Irvine, Attorney for defendants, and Mr. Bullitt, Attorney for Plaintiffs.

State of Virginia, County of Wise, ss-111:

I, G. T. Taylor, a Notary Public in and for the county and State aforesaid do hereby certify that the foregoing depositions of Joshua W. Hobbs, Elkanah Pennington, J. M. D. Barrow, J. J. C. Flanery, R. M. L. Slomp, D. G. Reamer, G. M. Slomp, J. D. Rhoads, Will Coomer, W. A. Ward and H. C. T. Reamer, were duly taken by me for the purposes and at the time and place mentioned in the caption hereto, and were sworn to and signed by witnesses waived by agreement of counsel.

Given under my hand this 21st day of December, 1908.

My Commission expires on the 31st day of January, 1911.

G. T. Taylor

Wise
Notary Public, Wise County, Virginia.

My charges are

August 20th 1908 7 hrs @ 75¢

August 21st 1908 5 hrs @ 75¢

August 28th 1908 7 hrs @ 75¢

Time for writing out

depositions 26 hrs @ 75¢

45 hrs @ 75¢

\$ 33 75

S. M. Wampler, et al
vs. { Depositions for Plffs
Alfred Slomp, et al

Received by mail in
good condition and filed
Dec. 7, 1908.

H. C. D. Ewing,
Clerk.

Hiram Young, Dr. J. G. Brown, John
 W. Eldred, Jm. Keeler, J. B. Oliver, &
 Jonathan Wainwright, F. M. Clark

Harvis Young, who he was married to.

Q - Mr. Irvine -

Q - Please state your age, occupation and place of residence?

A - I am 62 yrs. old Jan. 1st; my residence is in Dryden, in Lee County; my occupation, farming.

Q - What official positions in Lee County have you ever held, if any?

A - Well, sir; the first was, under the old township law, Township Clerk, in 1874 and 1875; next I was elected a member of the Lower House of the Virginia Legislature, in 1887; I was again elected in 1903 to the same office.

Q - Did you know S. B. Stamp, in his life time?

A - Yes, sir.

Q - How near did you live to him?

A - I lived about four miles from him.

Q - What were your relations with him, both socially and in a business way?

A - Well, I suppose that I have known him off and on, and have seen him frequently ever since I first knew him. We were together at school, and then after the war I had known him until the time of his death.

Q - Did you have business transactions with him within three years?

A - Yes, sir; yes.

Q - Did you see anything of Mr. Sleep during the last two years of his life?

A - Yes, sir; I seen him nearly every year from the time I first knew him up to the time of his death. I saw Mr. Sleep about, I reckon, three years before he died; I passed him in the road at a place where he was having some farming done.

Q - Did you see him one year before he died?

A - Yes, sir. When I saw him at the place I last named, he spoke to me about coming to his house and writing a will for him.

Q - This was about three years before he died?

A - Yes, sir.

Q - Did you go to his house to write the will for him at that time?

A - Not at that time, I did not.

Q - You did go, did you, in one year before he died and wrote the will for him?

A - Yes, sir.

Q - That is the will in controversy herein?

A - I suppose it is.

Q - I want to ask you, first; whether you saw him at any other times between the two last mentioned times.

A - Yes, sir; I went from Big Stone Gap with him at one time, I remember, (Do not know how long it was between the time), but it was just after the election; it was about a year ago, probably, from the time of my making his will, we met up

here when Col. Slomp was a candidate and was elected.

Q - That was November, 1904?

A - Yes, sir.

Q - Did you see him, that you can remember of, between that November and the following November, when you wrote his will?

A - It was on or about that time when I saw him and he said he was going to call on me to write his will.

Q - That would be before he died, about three years, would it?

A - The first time I spoke of was about two years before he died.

Q - Please tell the substance of the conversation you had with him at the time you saw him in the road when he wanted you to write his will?

A - Well, one of the subjects was Coomers taxes, and the six months was about past and he furnished Coomer with the money to pay his tax. He said he owed him; that was one time a part of the discourse we had. He said that Coomer must pay it and he furnished him with the money. Coomer was passing at the time. That was one of the times I had a talk with him.

Q - Was that the occasion when he asked you to write his will?

A - No, sir; it was another time. He was seeing something about his farm; he had a plow started inside of his fields and he was standing in the road. Me and John Barker met up and John was telling me about the trouble they had at the Seminary, at an

election; that he and the officers of the election had some trouble there. There was some trouble that got up about the voting business and Barker had been telling me about it, and Bass was also telling me about it.

Q - Was that the time he was asking you to write his will?

A - Yes, sir. He told me that he wanted it done to knock Barker and his wife out.

Q - John Barker?

A - Yes, sir; he married his sister.

Q - This, as I understand you then, was about election time, two years before you wrote his will?

A - I think it was, about the first, probably, of the month. I do not say for certain. I think it was before the will was written. I know it was just about the time of the election and I was coming up to Big Stone Gap and Barker and me had a talk about it and he was mad that morning, and then I came across Bass at his field and he said he wanted me to write his will for him.

Q - Did you write his will at that time?

A - At the time he sent for me, I did.

Q - At the time you were talking about.

A - No, sir; not at that time; it was some time before that that he called on me.

Q - Did you see him between that time and the time you did write his will?

A - I do not know that I did. I could not enumerate the times I did see him. I went part of the way down home to where he turned off, and I remember of seeing him on the road before the time I went to write his will.

Q - How did you come to go to write his will in November, 1905?

A - The day before I wrote this will I was at Pennington Gap transacting some business there about the Pennington Gap Improvement Co. and some body 'phoned down to L. W. Pennington that he wanted him to come and write Bass Slemp's will and Pennington 'phoned back that he could not come, but advised them to send for me the next day.

Q - Did they send for you the next day?

A - Yes, sir; I think they send for me, but I did not go until the second day. I did not go the same day that Alf came.

Q - What condition of mind did you find S. S. Slemp in? when you did go to write his will?

A - I did not see any difference in the condition of his mind then.

Q - Please begin at the beginning now and state to the Notary, as near as you can, all that happened that day and what passed between you all?

A - Well, Mr. Irvine, that would be a very hard thing for a man to rehearse at this late day, but I can give the most important features. I remember that I came there and he told me that he had sent for me and he said that he had put off the making of his will for some time, and that the people was

talking that he was not competent to make a will, and he said what do you think about it, and I said, well, Bass it depends on what you know about your matters, and how you would make a will, and I told him that he could make it and let the people be the judge of it, if he wanted to. Well, he said he meant to make it, and he made arrangements, and I think by this time Clarkston had come, and he said that the greatest trouble with him was to know how to satisfy his wife, that she had been very faithful and that they had made money fast and saved it and he was afraid if he made the will to displease her she would not be satisfied, and that he wanted to give her 40 acres of land and \$500.00 in cash, but he did not know how it was going to satisfy her. It seemed that they did not talk much, and it seemed that they did not want to talk about the will matter. I went into the room and told her that Bass was fixing to make his will but the great trouble was that he did not know whether it was going to please her, and he did not want to make it in a way that would displease her on her part, and that he had named about giving her 40 acres of land around and with the house, and giving her \$500.00, but he was afraid that she would not be satisfied with that, and she said to go and tell him to make it, that whatever he done she would be satisfied with.

Objection by Mr. Bullitt.

Plaintiff introduces the following objection; namely: Anything that Mrs. Valeria Slomp said is objected to as hearsay, and because incompetent and irrelevant.

Q - Did you tell him that?

A - I told him when I went back that I had talked to his wife and that she said for him to make it; that whatever he done about it she would be satisfied with. He said then I will not do that, I will only give her 33 acres of land and all the money I have. Now he said I want to know if this money can be used to defray the expenses of me and her during our life-time: I told him that it could. He said the reason he gave it all was that he did not know but what he and her might get sick and might have to be waited on four or five years.

I have omitted one thing that I ought to tell about this will and deed:--The reason why there was a will for a part and deed for a part. Well, he asked me; and, I believe, he asked Mr. Clarkston, in my presence; he said I had always rather dispose of my land by deed, now can I make a deed for my land and make a will for my other matters, and I told him that I thought it was perfectly legitimate. Well, he said he preferred doing that; that I thought it was good. I told him I was no lawyer, but I was satisfied that such a transaction of business as that was legal. Then he said he preferred to deed this land and he named over one piece of land of 180 or 190 acres that he had bought with the expectation of giving to Alf and Hop; he told how many acres there was in that, and then he named over about 117 acres more which was composed of different tracts, that lie in and around and about his home place. He said he wanted Dave to have his part out of that and Valeria to have hers but he did not want Valeria to have the best part of the land nor the worst, but wanted her to have the average acreage. Then he said he wanted Squeazy to have the upper end, but he did not, he said, care so much about that; that Squeazy had been talking about him

but he said he would go on and give it to him anyway. Then I believe he said he wanted to give all of his personal property to his wife. I asked if he was going to give Mrs. Wampler anything and he said he had intended to give her \$100.00. After I had progressed with this will I thought I would bring that matter up again for fear he had forgotten it, and he said that since he had studied it over he believed he would not give it, but would give it all to his wife.

Q - You did write the deed and will then, as I understand it?

A - Yes, sir. I think I did all except write the signatures of the party who signed it.

Q - And Squire Clarkston took his acknowledgment?

A - Yes, sir.

Q - And you and Squire Clarkston witnessed the will?

A - Yes, sir.

Q - Did you or not have a general discussion of his affairs that day in the preparation and execution of these papers?

A - Yes, sir.

Q - State the condition of his mind during this discussion?

A - I saw no change in his mind whatever during the whole affair. I have drawn several wills and he seemed to act ---- well, there was as little excitement about his mind as any man I had ever drawn a will for.

Q - State whether or not you saw anything that indicated mental incapacity to dispose of his property?

A - No, sir; I did not. He seemed to know his business and he named his stock, he said that is the same horse that I got you to work on. He told me the age of the horse; and if he said anything that indicated absence of mind, I did not see it.

Q - Did his mind on that day seem to wander, and did he become forgetful at times or not?

A - No, sir; I did not see anything at all. Very often in writing a will I will write one and have to make changes and get new paper, but we did not have to do this at any time.

Q - Who was present that day during the drawing up of these papers?

A - I do not remember anybody, only me and Mr. Clarkston.

Q - State whether or not his wife participated in any way in the discussion as to the fixing of the will and deeds?

A - She was never out of the kitchen, and she cooked dinner, and I think we eat dinner during the time this was in operation, and I never saw her out of the house and in the other house at the time we were working at the will and deeds. I do not know that she spoke to any one during the time. I went in to talk to her and I told her that I regretted very much that they had not raised any children, that it would be much better for them, and she said she regretted it too; but she never came into that room for any purpose, and I do not think she had anything to do in making any preparations about it, and if there was any other party there, why they must have been concealed, for I did not see anything of them.

Q - Did you see Squeezer?

A - No.

Q - Squeezer is John?

A - Yes, sir, John.

Q - Did Will Slemp and Doctor Edmonds come there while you were there?

A - Well, sir; it seems to me like they did; that they came and sit on the steps.

Q - Did you hear any of the conversation between them and Mr. Slemp?

A - Well, I heard them talking about bird hunting, but no other talk.

Q - State whether or not on any former occasion Mr. Slemp had told you what disposition, if any, he intended to make of his lands or other property?

A - He told me that the 180 acre tract he intended for (that is the time I was talking with him on the road) the two boys, Alf and Hop; he said they had been very kind to them and that he could not see how he could have gotten along if it was not for them, and he said they always came and helped him, and that it was a great satisfaction for him to know that he could get it done by parties who would do it as well as if he did it himself.

Q - Was that the land he had bought from Charlie Flannery?

A - I think it was the same land. He called it the "Wes land."

Q - The land that formerly belonged to J. W. (Wesley) Slomp?

A - Yes, sir.

Q - And it was known as the "Wes land?"

A - Yes, sir.

Q - Did he tell you on that occasion, or any other, what he had intended for the other two boys?

A - Yes, sir; he said he aimed for the other two boys to have their land out of the land at home. He said where he wanted Dave to have his and where he wanted John to have his.

Q - As I understand you then, he changed somewhat the provision for his wife after you came there that day and had a talk with him?

A - Yes, sir. He said that is the hardest thing of my making a will, to know how to make it in regard to her. He said that part of it is the hardest part I have to study about.

Q - Did he or not discuss retaining a life interest in the deeds, if he made deeds?

A - Yes, sir, and some said he could hold the land as long as he lived and the money, and that the will would cover that.

Q - You drew the deeds in that way?

A - Yes, sir. (It is very hard for a man after two or three years to remember exactly all that is in a piece of writing, and probably two or three of them at that - that is my opinion)

Q - Please state now what was done with these three writings after Mr Slomp executed them?

A - Well, I do not know whether Bass or Mr. Clarkston gave them, but they went in to Valeria and handed her the deeds with the understanding that she should turn them over to Alf.

Q - Was there any discussion about delivering the deeds between you and him?

A - Nothing said.

Q - Was there anything said by you or Mr. Clarkston that you remember of about making delivery of the deeds?

A - No, sir; I do not know that there was. I believe that he handled the papers and turned them over to her, and they were turned over to Valeria, and I understood him to say she could hand them to Alf.

Q - That is you understood Bass Slamp to say that Valeria could hand them to Alf?

A - Yes, sir.

Q - Did you ever see them after that?

A - I never did.

Q - State whether or not he talked over with you that day the notes, the stock and personal property that he had?

A - He said something about his notes and property, that he wanted his notes to go with the personal property. He said he had a horse and mule; that was about all the horse stock he had, and he had some cattle property, but he did not say as much about them as the old horse and mule.

Q - In describing his land, did he tell you anything of the corners?

A - I do not know that he did. He named to me, in talking about his lands and matters, before that time, about having to buy a road out, probably this time that I went down with him, and I was riding along there and he said here I had to buy a road and he kept talking about him having no pass-way out, and he said he bought it. It is a lane or road leading from the fence to go to his house, and he told me what he gave for it, and he said I just wanted to buy it and be independent of everybody and he said I just bought it and paid for it.

Q - That was not on the day he made his will?

A - No, sir.

Q - To refresh your memory, I will ask you if, he did not on the day he made his will tell you something about the line between him and John Gilley?

A - Yes, sir; he said something about that; ^{there} that was a disputed line there. I think it was between him and John Gilley?

Q - Did he, on that occasion, talk anything about some money he had loaned the Razors for building a church?

A - Yes, sir.

Q - What did he say?

A - He said he had loaned it to them and that he thought the debt was good.

Q - Do you remember whether he told you about how much money and notes he would have?

A - He said something about having \$1600.00 in money, and he did not enumerate and tell anything about his notes, but he spoke of building a church.

Q - Did you or not discuss while you were fixing up the deed, the giving of the house to Mrs. Slomp?

A - Yes, sir; there was something said about that, but in writing the deed he never mentioned to say whether it should be put in or not. He did not say that he wanted her to occupy the dwelling or not to.

Q - To refresh your memory, I will ask you if he did not say that he did not want her to have the dwelling house because he wanted her to have an average of the land?

Objected to by Mr. Bullitt,

Because leading.

A - Well, there was something said to that effect, as we impressed this matter on him and asked if he did not want this included in the deed, and I think he said he did not want her to have it, but the average land. After the matter was over with, will signed and the deed acknowledged, I asked Bass if he would not have a drink; I said "Bass have you not got any whiskey", he said he did not have anything except about a half-pint of gin. He said they had been giving it to him for kidney trouble, but it did not do him any good. I took a small drink of it, but I did not drink up all the gin that was there.

Q - When you left that day, state whether or not he seemed mentally off his balance in any way?

A - He was as much composed as I ever saw him. Saw nothing to the contrary.

Q - Did his ideas seem clear and distinct as to the manner in which he wished to dispose of his property there?

A - Yes, sir.

Q - State whether or not he seemed to have a clear understanding of what he wanted each one of these grantees or devisees to have?

Objection by Mr. Bullitt,

Because leading.

A - He seemed to know all about it, because he called all their names and told where each ones part ought to be, or ought to be laid off, stating the number of acres in each tract.

Q - State whether or not he seemed to have a fair and distinct idea of the property that he had and was disposing of?

Objection by Mr. Bullitt,

Because leading.

A - He did. I would not have been a witness to his will if his condition had been such that I would not think his will would have been bona fide.

Q - Judging him from his actions and his talk on that day, state whether or not you regarded him as rational and fully competent to dispose of his affairs? A - I did so.

CROSS EXAMINATION

By Mr. Bullitt -

Q - What time did you go there in the morning on the day you wrote his will?

A - I got there between 9 and 10 o'clock, just after nine.

Q - What time did you leave there that day?

A - I left there about between 3 and 4 o'clock.

Q - From the time you got there up to the time that you left you were talking with him on this subject?

A - Yes, sir.

Q - During that whole time you saw absolutely nothing that indicated a mental trouble of any kind?

A - No, sir.

Q - You spoke about deeds in your direct examination and you thought as to what they contained; have you not recently seen copies of these deeds?

A - No, sir.

Q - Have you not been over with Mr. Irvine what you testified to in this case?

A - Part of it.

Q - Did he show you all of the deeds?

A - He did not.

Q - You have not seen copy of the deeds after you wrote them until the present time? A - No, sir.

Q - How many deeds were there?

A - I believe there were two.

Q - Did you not tell me the other day at my office, about a week ago, that you thought there was only one deed?

A - It was my impression at that time, that there was only one, but he has his wife's separately.

Q - He made one deed to Valeria and the other to the boys?

A - That is my impression. I would hate to make a direct statement on that because it has been three years perhaps, and I could not keep the whole matter in my mind?

Q - Now, if I understand you, you say that Mrs. Valeria Slemp was not in the room at all while this will was being written?

A - She was not in the room while I was there. She might have come to the hall-way door.

Q - You say that either Bass Slemp or Marion Clarkston went out to give her the deeds?

A - That is my impression?

Q - You do not know which one gave them?

A - No, sir; but I saw them in her hands after she had taken them.

Q - She did come then to the room, and as far as the hall-way door?

A - Well, she might have come that far, and it is my impression that I saw her there.

Q - That was in the room, across the hall; was it?

A - Yes, sir, just through the door.

Q - She was never in that other room?

A - No, sir.

Q - You do not know which one of them gave her the deeds?

A - No, sir.

Q - You do not know what was said to her when the deeds were given to her?

A - No, sir. He said the deeds could be given to Valeria and she could give them to Alf.

Q - You do not pretend to know what was said at the time the deeds were actually given to her in the other room?

A - No, sir. My understanding was that she was to put the deeds away and give them to Alf when she saw him.

Q - Now did you not say that you saw them hand the deeds to her?

A - Well, I saw them with the deeds in their hand.

Q - You are certain of that?

A - Yes, sir.

Q - Did you tell me that part of it when you were talking to me the other day?

that you criticised me.

Q - Criticised you about it? Did I criticise you the other day?

A - Well, you asked me questions, but I did not know whether it was criticism or not.

Q - That is not criticism, is it, to ask a man questions; is it?

A - Well, sir, I do not know that it is.

Q - I asked you what you understood to be the facts; did I not?

A - Yes, sir; and I tried to tell them as near as I could.

Q - Now you say that Bass said that he wanted to retain a life-time interest in the land and that some of them spoke up and said that he could retain a life-time interest, or something to that effect; what did you say with reference to that?

A - Well, I said he wanted a life-time interest and I told them that he would have it.

Q - What did you mean by telling him that he would have it?

A - That the deed would leave him in possession of what he had as long as he lived. He said that he wanted to retain a life-time interest as long as he was living.

x

Q- You wrote the deeds?

A - Yes, sir; I think I did.

Q- It was Marion that told him that the deeds would give him a life-time interest?

A - Yes, sir. It rather excited me Mr. Bullitt when you and Mr. Chalkley both came out there, and I was afraid that you would go off and say something or make a statement that I was not making.

Q - On that occasion you had been summoned up here to give your testimony?

A - No, sir.

Q - How did you happen to be up here.

A - Suppose you wrote a letter.

Q - You had been informed by letter to come and give your deposition?

A - Yes, sir.

Q - How did it excite you then?

A - Because you were on the other side of the question and I did not know about the construction you would put on that. I would say?

Q - You had a good while to get calmed down as to what you wanted to say on the subject? You got our letter several days before you came up here and when you did come you knew that we wanted to talk on that subject?

A - I supposed you would talk to us under oath, after you put us on the stand.

Q - Is it not the custom for lawyers to talk to witnesses before they put them on the stand?

A - Yes, sir.

Q - Did you not say a little while ago that I would not talk to you before we put you on the stand?

A - Well, I did not know who you had summoned. My notion was that your letter stated that you and Mr. Irvine had agreed on that day to take my deposition in the two Slomp cases and for me to try to be here on Thursday, the 20th of August, and there was no summons. I suppose there was a summons came after I left home. I suppose the summons would have been brought to me, but I reached home before the summons reached me.

Q - What I asked you was; did you really suppose that we would put you on the stand before first talking to you?

A - Well, I do not know that I had any idea about that.

Q - You knew as a matter of fact that we would talk to you before putting you on the stand?

A - No, sir; I did not know.

Q - You had been up here all that morning and we did not talk to you until noon or afternoon?

A - I got there about fifteen minutes before you talked to me. I came on the train from Appalachia up here, on the V. & E.W.

Q - Had you not been in the office seeing us taking depositions some time before Mr. Chalkley and I adjourned?

Q - Mrs. Valeria Slomp kept all of his papers for him, generally; did she not?

A - Well, that is only a matter of supposition to me. I suppose she did. It is generally conceded that a man's wife takes care of all his papers and things that is left at the house.

Q - Mr. Wampler had raised Bass Slomp; had she not?

A - I do not know.

Q - Mr. Young, did you see Charlie Bailey last Sunday?

A - No, sir.

Q - Did you see Charlie Bailey some time ago and have a talk with him about this case?

Objection by Mr. Irvine

A - Because time and place were not given.

A - I was at Charlie Bailey's about six weeks ago, as near as I can recollect.

Q - Did you, on that occasion, tell Charlie Bailey that Bass Slomp was all right so far as making deeds were concerned but on other matters he was all off?

A - No recollection of telling Charlie anything about him being off on anything.

Q - Did you ever tell Charlie Bailey that, at any time?

A - Not that I recollect.

Witness is here shown copies of the will and deeds by counsel for defendants and makes the following statement:

I drew those deeds and also that will, and drew the acknowledgment also; and, after looking at the deeds I find that my memory is refreshed as to holding the tracts of land. I never had seen

a copy of the deeds until the present time after the deed was drawn, but the amount of acres that I here expressed on my oath corresponds with the deed. My recollection of what he told me that day and the number of acres is exactly the same. I notice the deed to his wife includes, in the same deed, Dave and John.

Question by Mr. J. C. Noel, of counsel for defendants.

Q - Were these deeds and will read to Mr. Slomp before they were acknowledged and signed?

A - They were. I believe, the second time. I believe he had them read over as high as twice.

Question by Mr. Irvine-

Regarding this will, Mr. Young, state whether or not Mr. Slomp signed, published and acknowledged it in your presence?

A - Yes, sir. H

Q - Did he do this as and for his last will?

A - He did.

Q - Who was present with you?

A - Squire Clarkston, F. M. Clarkston.

Q - Did you all subscribe your names as witnesses, at his request?

A - Yes, sir.

Q - Were you both present?

A - Yes, sir. I said that it was a very particular thing; I told Clarkston to sit where he could watch me sign my name and

I would sit where I could see him sign his name. I made the remark that I had been questioned on that point on former wills; that each one ought to sign and know that the other was watching.

Question by Mr. Bullitt

Did S. S. Slomp sign his own name to the will and to the two deeds, or did you and Mr. Clarkston sign it for him?

A - My recollection is that he signed it himself.

Q - Are you certain of that?

A - I am not certain, but it is my best recollection.

And further deponent sayeth not.

Signature waived.

The further taking of these depositions is adjourned until to-morrow, August 29, 1908, to be resumed at the same place.

Met, pursuant to adjournment, at the law office of Irvine & Morison, Big Stone Gap, Virginia, August 29, 1908.

Present:

The same parties and attorneys as on yesterday.

Dr. J. A. Gilmer, being first duly sworn, deposes as follows:

By Mr. Irvine -

Q - Please state your age; occupation and place of residence?

A - Age 27 yrs.; physician, Big Stone Gap, Va.

Q - How long have you been practicing your profession, doctor?

A - Have been in active practice, outside of hospital work, over three years.

Q - Please describe your medical education and hospital work prior to your active practice?

A - I took the regular course in a medical school, with some practical work in the mean time, and after graduation was appointed resident physician at the hospital in connection with the college. This position I held a little over twelve months after graduation. This college was the American Medical College, Baltimore.

Q - You had one year of hospital practice after your regular graduation; did you or not?

A - Yes, sir. I also had two months before graduation.

Q - Were you ever called on to attend S. S. Slomp, in his life time?

A - Yes, sir.

Q - Were you his regular physician, and if so, for what period?

A - Yes; I attended him from November 4, 1905, until his death.

Q - Have you recently referred to a memoranda of your visits to him in November, 1905, and about that time, so as to fix the dates of your various visits to him, and if so, state those dates?

A - Well, as I have it on my books, November 4th was the first visit; the 8th; the 16th, and the next visit was December 2nd.

Q - Please describe Mr. Blomp's mental and physical condition on your first visit to him, on November 4, 1905?

A - Well, at that time he was going around about the house, complaining mostly of head swimming and some slight tingling in one of the arms and neck. I did not notice his memory so much at that time as other times. The main thing he was complaining with at that time was his head swimming.

Q - State your best recollection now of his mental condition on that first visit?

A - It was fairly good, the way I looked at it.

Q - Did he have any weakness of memory; and if so, how was it manifested?

A - Well, I would say it was slight. When you spoke of people and the names of places he seemed to be. He would speak of a certain person and he would probably call him by some other name and by the time he would complete the conversation he would very often correct himself.

Q - Now please describe the physical and mental condition in which you found him on the second visit, which, as you say, was on November 8, 1905?

A - Well, I noticed this memory absence more so than I did the first time, and his head swimming continued along about the same as it was the first trip.

Q - Now please state the same with regard to your third visit, which was on November 16th?

A - I found him better then than I had at either of the other two trips. That day while I was with him he seemed to remember most everything that he talked to you.

Q - Had there been any change of note in his physical condition on that occasion?

A - At that trip he was not complaining of his head swimming and said it had just about left him.

Q - Had you given him treatment during that period, from your first visit?

A - Yes, sir.

Q - Did you talk with him much on this visit (on the 16th)?

A - Yes; always stayed as a rule, and several times took dinner with him and sit around and talked to him.

Q - Tell, as near as you can recall some of the things you discussed with him on this visit, and in a general way, what he said and how he acted?

A - Well, one thing I remember, I spoke to him of buying

a piece of land adjoining ours and he told me that at the time he did not know whether he wanted to sell it or not; that it was the first piece of land that he had ever bought and he had heard it said it was bad luck to sell the first thing you ever had. Any way, he said it was bad luck, and I asked him what he thought the land would be worth and he did not exactly say at that time, but I think I offered him \$650.00 for it, and he said he could not take that for it. I asked him then to put a price on it, and he said it was worth \$700.00, and I think I told him that I would take it at that and he said he would rather wait a while, but if he did ever sell it, he would let us have it.

Q - Do you recall what piece of land that was?

A - Yes, sir.

Q - What was it?

A - It was said to be a nine-acre tract adjoining our farm.

Q - Was this or not a part of the land that he deeded to his wife and two of his brothers, by deed of November 21st?

A - Yes, sir, it was said so, or it was the way I understand it.

Q - Doctor, please state whether or not, in your opinion, on that occasion, November 16, Mr. Slomp was of sound mind and of disposing memory?

A - Well, I would have been willing to have closed the contract on that land that day if he had sold it. I never at any time while I was with him noticed him talking with bad memory while I was with him. In fact, on my other visits I never did mention about buying the land until I saw him that day.

Q - And you did think, as I understand you, that he was capable of transacting such business as selling real estate on that day; is that correct?

Objection by Mr. Bullitt,
because leading.

A - Yes, sir; I believe he was capable on that day.

Q - State whether or not you regarded him as capable on that day of making a will disposing of his property?

A - On the 16th?

A - Yes.

A - Yes, sir; I believe he would have been capable.

Q - Do you recall any other subjects that were discussed by you on that day?

A - I cannot recall any in particular at this time.

Q - Now, doctor, please describe his physical and mental condition when you next visited him, on December 2, 1905.

A - Well, I did not see any change; he was about the same.

Q - Can you recall how long you stayed with him and how much you discussed different subjects with him on this last named visit?

A - I do not know just how long I stayed that day, and I cannot recall any discussion or any subject talked of that day.

Q - Had you or not heard before you went back to see him on this occasion, December 2, that he had in the meantime made a will and deeds for disposing of his property?

A - Yes, sir; I had heard that. I forget whether it was here in town or when I got down in Lee.

Q - Please state whether or not the fact that you had heard this caused you to observe any more closely than you would otherwise have done on this occasion; on December 2nd?

A - Yes, it did, because it was only a few days before this that I wanted to buy this piece of land.

Q - State whether or not in your opinion he was capable of making a will disposing of his property on December 2nd?

A - Yes, sir; I think he would have been on that day.

Q - Did you or not continue to visit him periodically from that time until his death?

A - Yes, sir.

Q - State in a general way the progress of his trouble and his physical and mental condition from that time on to his death?

A - Sometimes I would find him better some days and other times I would not, probably find him the same.

Q - How was he along about the first few weeks after that period, December 2nd?

A - I forget whether it was the next trip after December 2nd or the second trip after, but they sent for me, thinking probably that he was worse, and they asked me to go down and see him.

Q - How did you find him when you went?

A - Well, at times you would find him that his memory would not seem to be so good and may be the next time it would be some better, and he complained off and on of his arms and legs tingling and seemed to be afraid of paralysis, and I would not talk to him about it in order to get his mind off of it. At some trips he would complain of slight head swimming but may be next trip it would be better.

Q - State whether or not you noticed any appreciable change in his mental condition during the first two weeks; say the first month or two after December 2nd?

A - Well, I could not say that there was anything favorable in his mental condition towards a recovery.

Q - Was it unfavorable or remained about the same?

A - I might say for a few weeks, or two or three months it stayed about the same, may be you would notice a slight change in it one way or the other, but a while before he died I did not think I noticed it for the better at all.

Q - At what time did he begin to grow appreciable worse?

A - The best I remember of that, it was along about the middle of September, 1906. That is where we could see no hope for him getting better at all.

Q - State what his mental condition was during the Spring and Summer of 1906?

A - Well, that would vary a great deal. Sometimes you would find no change and sometimes better.

Q - Describe, please, the effects of his mental trouble during that spring and summer?

A - Well these symptoms were of head swimming and tingling, and pains through his arms and legs, and his memory, -- he could not at times remember the exact names of persons or places in talking to you.

Q - Could he or not remember his business affairs, and what property he owned and things of that kind?

A - Well, he talked to me sometimes about his cattle and hogs and he would go with me to the barn and make mention of those things; And, I heard him talking about his land and corners. One time I heard him mention about a corner between Young and my father and on his land adjoining and he was talking about that corner and he spoke of it being about a tree or something of that kind. He seemed to have a knowledge of what the corner was and where it was.

Q - Do you recall when that was?

A - No, I cannot say when that was.

Q - When he did discuss his business matters with you, state
53- whether or not he did it in a rational and sensible way?

A - I do not know about really business matters; he was only speaking to me of his cattle and hogs, how many he had, and his land and who he rented ground to, he talked with good sense about it.

Q - You stated that he grew appreciable worse the middle of September, 1906; state whether or not he continued to grow worse until his death in November following?

A - Yes, I think he grew worse from that time on to his death. I could see nothing that would indicate hopes of his recovery at all.

Q - Did you at any time after you began your visits to him, November 4, 1905, call in any other physicians into consultation, and if so, when and whom?

A - Yes; doctor Stallard was called in; I forget what month it was, but it was in the summer of 1906.

Q - Any one else?

A - I believe that was the only one in consultation for him.

Q - Did you or not treat his wife and operate on her for the cancer during this period?

A - Yes, sir.

Q - When was that?

A - September 6, 1906.

Q - Who assisted you in that operation?

A - My father, Dr. Stallard and Dr. Carr of Horton.

Q - Describe the mental and physical condition of B. B. Slomp at the time of and immediately preceding and after this operation?

A - Well, he seemed to take a great deal of interest in her as to her getting well, and he wanted her to be operated on, and he seemed well pleased after we told him that we were through with the operation, and he seemed to notice everything we had done there that day, but you could notice a slight defect in his memory that day.

Q - Did you or not advise and consult with him prior to performing that operation about the wisdom of performing it, etc.?

A - Yes, he was the first to tell me about this trouble, and she did not much want to let me examine the place but he was very anxious for me to examine it and finally persuaded her to let me examine it.

Q - About when did he first tell you of this and begin to discuss it with you?

A - I do not remember the exact time, but it was along when I was first called to see him. I remember that he called me to see her as well as himself, but which trip I cannot say.

Q - Did he or not from that ^{first} time on up to the operation, discuss her condition with you?

A - Yes, he would talk to me. He talked to me several times.

Q - State whether or not in discussing this subject with you he appeared to be rational and sensible?

A - Yes, when he talked to me about her he always seemed as though his memory was good, and he would ask questions as to whether we would send her off to have it done and what I thought best about that.

Q - What was your diagnosis of his trouble, doctor?

A - Chronic softening of the brain.

Q - Please describe this disease in a general way and its effect on a patient?

A - Well, it usually comes on slow with head swimming, tingling, pains and motor weaknesses; that is, weaknesses which increase usually until loss of and defective memory.

Q - Doctor, what would you understand by an "acute" in a case of this kind?

A - That usually comes on without any warning, that is, a patient for instance, like myself sitting in a chair would drop over usually unconscious at the time.

Q - Did he in your experience with him have any such attack?

A - No, sir.

Q - Do you think he had had any such attack before you began to treat him?

A - No, I do not think he had, nor I had not heard of any attack or trouble that would make me think he had an acute attack.

Q - State whether or not you obtained or tried to obtain a history of his trouble from him and his wife and other sources at the time you began to treat him.

A - Well, I asked him questions but do not remember much of asking his wife of any questions relative to the history of his trouble, but I asked his brothers?

Q - Were you or not told of a trouble he had in wheat threshing time, prior to the time you began to treat him?

A - I have a faint recollection about him falling, I do not know whether it was off a stack or what.

Q - Do you know whether or not, from what you heard about his falling, that it was the result of an attack of this or some other cause?

A - To the best of my recollection I attributed that to head swimming.

Q - Doctor, supposing that Mr. Sloop's trouble began to manifest itself first, something like a year prior to November, 1905, and to have been noticeable only or chiefly by some swimming of the head and more or less loss of memory and inability to recall readily names of persons and places and that this trouble was noticeable at intervals say, of a month or two, along and up until July or the first of August (wheat threshing time), 1905, and that ^{at} this latter named time he had a more serious spell or trouble than before, which manifested itself in a more or less violent form of head swimming and loss of memory from which he was confined to his room or to his house probably for several days, after which he was better and continued then until you first visited him in only an occasional manifestation of head swimming and loss of memory, would you or not, if this were the proved state of facts regarding him, think that he had had an acute attack of softening of the brain?

A - Do you mean acute attack at that time; at that wheat threshing?

Q - At any time. In other words, do you think that those symptoms would indicate to you that he had had at any time an acute attack?

A - I think that it was gradually coming on him.

Q - Would you or not think that, if I have retained to you correctly the general condition of Mr. Sleep prior to the time you began to treat him, his disease had so far advanced as to render him incapable of having sound mind and disposing memory, in the sense that he could not dispose of his property in accordance with his wishes?

A - No, I do not think that would render him incapable of sound mind.

Q - How about the disposing memory; that is, the memory which would recall all of his property, and the manner in which he wished to dispose of it?

A - Well, he ought to have a good memory, judging from what you say, and when I first knew it.

Q - State whether or not an "acute" attack of softening of the brain is accompanied always or usually by paralysis?

A - It most always is.

Q - In your examination of Mr. Sleep and enquiry as to the history of his case, did you ever or not discuss with him the question as to whether he had ever had syphilis or gonorrhea?

A - Yes, sir; I asked him that at least three different times.

Q - What did he tell you?

A - He always spoke very positively and told me that he never had had syphilis but he had gonorrhea.

Question and answer objected to by Mr. Bullitt.

Q - Did you or not give him treatment to ascertain whether he had any syphilitic elements in his system?

A - Yes, sir. I gave him treatment for the softening of the brain, and if there had been any syphilis about it I believe I could have gotten some results from it, if it had been only for a short period of time.

Q - Did you get any results that would indicate that he had any syphilitic tendency?

A - No, sir; I cannot say that I did.

Q - What is your belief now about that, after having treated him?

A - As to having syphilis?

A - Yes, sir.

A - Well, I never believed that he had it.

Q - Do I understand that you do not now believe it?

A - I do not now believe that he ever had it.

Q - Suppose that he had had a case while a soldier in or about the year 1864 or 5, while in the army, but came back from the army and was a sound man who worked as hard as Mr. Slomp is shown to have toiled during the 40 yrs. following, would you or not think that any remnants of the disease that might have been left from his early case had been eradicated?

A - I do not believe that there would have been any trouble left.

Cross Examination

By Mr. Bullitt:

Q - Doctor, what are the different causes which produce softening of the brain?

A - Several; I do not know whether I remember all. There is syphilis and anything that will have a tendency to increase the coagulability of the blood; diseases of the blood vessels themselves and ligation of the carotid artery; diseases of the heart or valvular diseases of the heart in which there would be fragments of it carried to the different parts of the arterial system.

Q - Do some forms of kidney trouble produce softening of the brain?

A - Brights disease might have a tendency to increase the symptoms of softening of the brain. I do not believe that it would bring on an attack of softening of the brain - that is, kidney trouble alone.

Q - Do you think there are any forms of kidney trouble which will produce softening of the brain?

A - No, sir; I do not believe it would bring a case on itself.

Q - Did Mr. Slomp have any kidney trouble?

A - He was troubled with a frequent urination. On examination I found the prostate very much enlarged.

Q - Did he ever have any other kidney trouble except that?

A - None that I could find.

Q - What was the cause in your opinion of the softening of the brain of Mr. Slomp?

A - The exact cause -- that is hard for me to say. There was some little hardening of the arteries that you could notice, but it was not well marked.

Q - What does that mean?

A - It means that there was a degeneration of the coats of the arteries.

Q - What is that hardening produced by?

A - Well, in old people it is tolerably frequent; in young people it can be produced by syphilis, gout or lead poison and things of that kind.

Q - What I want to get at is what is the actual cause of that hardening; is it not produced by a deposit of calcareous matter in the blood?

A - There are deposits in the coats of the arteries and you can feel them in the blood vessels.

Q - That is a deposit of calcareous matter; is it not?

A - It is an increase in the connective tissues in the coats of the arteries.

Q - What produces the increase?

A - You can attribute it to a cause: that is, syphilis or lead poison or gout, and those things.

Q - What I am trying to get at is this: If there is an increase of substance in the connective tissue, there must

be some new substance added to the connective tissue in order to make the increase; now what is this new substance that is added which increases the thickness of the connective tissue?

A - It would be the salts from the blood, the constituents of the blood in the way of salts, and it could be the poison from the original cause of the disease: take lead poison; you could take poison of the lead itself; take from gout, the acid that produces gout would have effect on the coats of the tissue of the arteries.

Q - Well, now, what is the actual and physical effect which the disease known as softening of the brain has upon the brain?

A - Well, it produces degeneration; and it can take on a yellow or lead color, which will be owing to the amount of blood supply cut off from the brain.

Q - Softening of the brain means, if I understand you, that in some way the natural flow of blood is lessened, and this produces degeneration of the brain?

A - Yes, sir.

Q - Now, what you mean by degeneration, if I understand the term, is that the nerve fibers of the brain and the nerve cells of the brain become as it were broken down and rotten; is that not the cause?

A - They are broken down and weakened in different respects, and I suppose if it were to continue so it would become something like that.

Q - Now, what is the difference between an "acute" attack of softening of the brain and what you would call a "chronic" case of softening of the brain?

A - An acute attack usually comes on without any warning; it comes very suddenly, and a patient as a rule is unable to talk, and with paralysis of the same part of the body; it is most usually one side, and if they fail to become conscious usually within 24 hrs. or so, it usually becomes fatal.

Q - An acute attack is produced by some sudden clotting up of the blood vessels that feed the brain?

A - Yes, sir.

Q - Now, a chronic attack is produced by a gradual clotting up of the blood vessels which supply the brain?

A - Yes, sir.

Q - You might have a very violent acute attack and you might have an acute attack which was not so violent; depending upon the largeness of the blood vessel that was suddenly clotted up; might you not?

A - Yes, sir.

Q - Now, when you have said that an acute attack usually produces paralysis, this paralysis may be over the whole body, or a large part of the body, or only one limb, may it not, depending upon the section of the brain which is effected?

A - It depends upon the severity of the attack, I would think.

Q - Does it not also depend upon the section of the brain which is directly involved?

A - Yes, sir; it would depend upon the part of the brain paralyzed.

Q - In other words, if the left side of the posterial lobe of the brain was the diseased part in an acute attack it would have a tendency to paralyze the right members of the body; would it not?

A - Yes, sir.

Q - Now, doctor, what is the medical name for that kind of loss of memory which makes one forget names of familiar places and familiar people?

A - Well, I do not just exactly remember the name of that.

Q - Is it not called "Aphasia"?

A - The way I understand that word is the inability of a person to speak the words to what they want to express.

Q - Is that what the trouble was with S. S. Slemp?

A - He could go ahead and talk but he would not seem to be at a loss as to words, but he would just go ahead and speak, maybe if he would speak to you he would call you by some other name.

Q - What medical name would you apply or give to that form of brain trouble -- the form that S. S. Slemp had?

A - I would call it softening of the brain.

Q - Is there not any medical term that you would apply to that kind of loss of memory which he had, which made him call a man by a different name?

A - I have not been able to find that word, and I looked that word up and I never did find a word that suited my mind that applied to his case that would explain it to me fully.

Q - If, I understand from what you have said, a chronic case of softening of the brain results from the gradual lessening of the blood supply to the whole brain; does it not?

A - Well, it would not be especially to the entire part of the brain.

Q - It might be a lessening of the blood supply to different portions of the brain?

A - Yes, sir.

Q - Now, if it was a lessening of the blood supply to the posterial lobes of the brain, the result would be shown more especially in the loss of motor power; would it not?

A - Well, if ⁱⁿ the motor part of the brain, it would.

Q - Well, the posterial lobes of the brain are the parts of the brain which do control the movements of the body; are they not?

A - Yes, sir.

Q - Now, if there was a lessening of the blood supply to the anterio lobes of the brain, the effect would not be shown in a loss of motor power; would it?

A - It could be when he came to speech, and I believe that it would also have some effect upon the opposite side of the body, but it would not have so marked an effect on the motor powers of the body other than that of speech as the disease of the posterial lobes of the brain.

I would not think it would have entirely the same effect.

Q - Now, therefore, the fact that Bass Slemm very seldom went to bed up to the time of his death and continued able to walk around, would indicate that the main trouble in his case was with the anterio lobes of the brain; would it not?

A - The main trouble was in the anterio lobes. I believe both parts were affected from the supply of blood being cut off in that part of the brain; I believe both were affected.

Q - You believe that both, his anterio lobes and posterial lobes were affected?

A - Yes, sir.

Q - In other words then, you believe that the whole of his brain was affected?

A - No, sir; I do not mean that. The two halves of the brain

in the front part, one on each side; now, I believe he was paralyzed on the left side, and to the best of my recollection, the right side of that brain was also affected.

Q - You believe that both the right lobes and left lobes were affected?

A - Yes, sir.

Q - Now, if he was paralyzed on the left side, the right side of his brain was affected? You think that both the anterior and posterior lobes on the right side were affected?

A - Yes, sir.

Q - What is the cerebellum?

A - It is the posterior portion of the brain; motor part of the brain.

Q - What is the legal medical name for the other lobes of the brain?

A - Frontal lobes.

Q - Now, did I understand you to say that you believe that the left side of his brain was affected: do you mean to say that the right side of his brain was not affected?

A - I said to the best of my recollection that he was paralyzed on the left side and the right side of that brain was also affected.

Q - The left side of his brain was not affected?

A - I do not think it was affected.

Q - Is it not probable that the whole brain was affected, but that the right side was affected more than the left?

A - I hardly think so from his symptoms. I would be safe in saying it was the right side of his brain. Had both sides been affected anything like the same he would not have lived as long as he did.

Q - Doctor, what are the portions of the brain which are necessarily exercised in the higher workings of the mind; that is, in reasoning, and things of that kind?

A - That would be the front part of the brain or what is

called the cerebrum. . .

Q - Now, with reference to the cerebrum, if one side of that is affected, it is so intimately connected with the other side of the cerebrum that it necessarily affects the working of the mind; does it not?

A - It will effect the mind from the one side being affected; and, of course, effect it more so if the front portion of the brain were involved.

Q - If it be a fact that S. S. Slemp had an attack in July, 1905, which caused him to fall and that he had to thereafter be put in bed and was for a time in more or less of a stupor, would you not call that an acute attack of softening of the brain?

A - I could not say positively that I would call it that; it might be only an increase of the previous symptoms; for instance, the head swimming.

Q - If it were not an acute attack, but result from the gradual progress of the disease, it would indicate that the disease had at that time gone to a very considerable extent; would it not?

A - Well, I would not think that it had gone to such an awful extent, judging from the length of time that he lived.

Q - Well, now what I want to get at is this: Does the chronic form of softening of the brain ever produce such an effect upon the brain as to cause a man to stagger and fall, and then cause him to have to lie in bed in a stupor for several days without the disease having progressed to a very considerable extent?

A - Well, if he was in a stupor and had to stay in bed several days I would think that the disease would have to progress up to that time to a smart extent.

Q - Were you sent for on the 4th of November when you made your first visit to Mr. Slemp?

Mr. Slomp, but I forget whether it was a 'phone message or some one came after me.

Q - Were you sent for on the 8th, or did you go back of your own accord on the 8th?

A - I cannot say positively about that whether I was sent for or was called.

Q - Now, with reference to the 16th; were you sent for or did you go back of your own accord?

A - I think I went of my own accord.

Q - What makes you think that?

A - Well, I do not know just what made me.

Q - Were you sent for or did you go of your own accord on the 2nd of December?

A - I think I went of my own accord.

Q - Were these all the visits that you made between the 4th of November and the 2nd day of December?

A - To the best of my recollection and according to my books, they are.

Q - You are going by what your books show rather than by any independent recollection; are you not?

A - I am going more by them about those trips. I have some recollection about it, but I would not base it on my recollection.

Q - Might you not also have made other visits which your books would not show?

A - Yes, sir.

Q - You cannot say then that the visits you have referred to on the 4th, 8th, 16th and second of December were all of the visits that were made between those dates?

A - No, I would not say positively that they were all.

Q - Now, if I understand you, you think that S. S. Slomp was sufficient by himself on the 16th to make a land trade with you?

A - Yes, sir.

Q - Did you think he was sufficiently at himself on the 4th and 8th to make a land trade with you?

A - Well, from my own standpoint at that time I did not feel like talking to him about it.

Q - Well, you did not think he was in condition to trade land on those dates?

A - Not entirely so.

Q - You did not see him between the 16th and 21st of November that you have any recollection of?

A - Not that I have any recollection.

Q - Doctor, if on the 21st of November this occurred; namely - that a Mr. Coomer who was working on the place went to the house on the morning of the 21st of November and there saw Mr. Slomp and asked him to pay him a dollar, and Mr. Slomp pulled out a five-dollar bill from his pocket and handed it to him, and thereupon Coomer told him and called his attention to the fact that it was a five-dollar bill and not a one-dollar bill, and that he, Slomp, then said that he knew his business, and broke down and cried and said that he knew his business and that they were trying to make him out a fool, and if, thereupon Coomer called upon his, Slomp's wife, and she then assured Mr. Slomp that it was a five-dollar bill and not a one-dollar bill, and if he still persisted that he knew his business and that they were trying to make a fool of him, or words to that effect, and if then his wife told Coomer, for the purpose of satisfying Mr. Slomp, for him to go on and take the five-dollars and she would charge it on the books; would you or not think that Mr. Slomp was in a worse mental condition on that day than on the 8th or 16th, when you had seen him before?

A - If he did that he was in a worse mental condition than I had seen him previous to that day.

Q - And if he did that on that day you would think that he was in a condition to make a land trade?

A - I hardly think so, if that was the case.

Q - Now, Doctor from the time you first saw him, on November 4th, is it not true that on the whole his disease progressed, and on the whole he got worse up to the time of his death?

A - His different symptoms would vary at different times that I would be there.

Q - I understand that. Well, there was a gradual increase in the defection of the brain which did not show at all times the same --- if, I understand, he would appear a little better at one of your visits than he had before, and then, maybe the next time he would be a little worse; but what I am trying to get at is, is it not true that there was a gradual progress of the disease from the time you first saw him up to the time of his death?

A - Yes; a gradual progress.

Q - You did not keep any chart showing his condition on these various visits that you made to him; did you?

A - No, sir.

Q - Doctor, you have stated that from the middle of September, 1906, on you saw no change for the better in Mr. Slemph's condition at all; is this correct?

A - Well, I could not see that there was any possible recovery for him.

Q - From that time on he was in practically a stupor; was he not?

A - I cannot say that I ever saw him in what you might call a stupor until a few days before he died?

Q - From the middle of September on his mental condition was very bad; was it not?

A - Yes, sir; it was not good at all.

Q - He was not in any condition to attend to any business?

A - No; I could not say that he was.

Q - This condition had come on gradually?

A - Yes; it seemed to be gradual to me.

Q - He had no acute attack about the 15th of September?

A - No, none that I saw.

Q - Then there was very little difference in his mental condition a few months before September 15th and on Sept. 15th; was there?

A - Well I would find him at times before that with better memory than along then.

Q - If he had no acute attack along about the 15th of September, there could not have been much difference in his mental condition between the 15th of Sept. and the 15th of August

A - I noticed from the 15th of Sept. on that there was little or no improvement at all about him.

Q - Were you there more from that time on than you had been previously, on account of the operation on his wife?

A - Yes, I was there pretty often after that.

Q - About how often?

A - Well, for probably a week I was there every day.

Q - Why did you happen to fix on the 15th of September as the date you saw no improvement, if there was no chronic attack?

A - Because on the day his wife was operated on you could notice some defect in his memory then; outside of that he would take great interest in her operation, and about her recovery, etc.

Q - Even at that time he was not in a condition to attend to business?

A - Well, I would not consider that he was in condition to do business to any great extent.

Q - Was the mind of his wife affected in any way?

A - None whatever that I could see.

Q - Was there anything wrong in his wife's mind: A-No, sir.

Re-direct Examination

By Mr. Irvine:

Q - Doctor, I now read you a part of the evidence of C. M. Slemp, given a few days ago in this case on behalf of the plaintiffs and found, beginning near the middle of page 46 and ending near the bottom of page 48 of the transcribed deposition given by him in this case (this part of the evidence here read to witness): Now I have read you the evidence as given by C. M. Slemp, bearing on the state of mind and health of S. S. Slemp on the occasion referred to in your examination, called "Wheat threshing time", and I will ask you, basing your opinion on what you have here read, whether or not he indicated what you would call an acute attack of softening of the brain?

Objection by Mr. Bullitt

Question objected to, first; because he should have been asked in chief, and, secondly; because the witness has not read but a small fraction of Chad Slemp's testimony as to the condition of S. S. Slemp, and, third, because Chad Slemp was not allowed to tell about what did actually happen to S. S. Slemp when he went into the house and got upon the bed.

A - No, sir; I could not consider that an acute attack.

Q - Now doctor if the facts you have heard read there, or if they are substantially the facts as are shown in this record regarding that occurrence, and if there is no evidence in the record showing that Mr. Slemp ever fell down or had to be carried to the house, what is your opinion as to its being an acute attack?

Objection by Mr. Bullitt

Objected to for the same reason as above.

A - I would not think that it was an acute attack.

Q - Doctor, you have stated to Mr. Bullitt that you would not be positive that the visits named by you, to-wit: Nov. 4th; 8th and 16th and Dec. 2nd, 1905, were all the visits that you

made during that period; please state your best recollection as to whether they were all or not?

A - Well, I could not say positively that that is all of the visits that I did make. I do not remember of making any others; I cannot recall making any others at all in between those dates.

Q - You were asked by Mr. Bullitt as to whether or not you thought Mr. Slomp was in a condition to make a will on November 21st, if the substance of the evidence regarding Coomer and the one-dollar bill were true; suppose that case as stated by Mr. Bullitt were substantially correct but that the occurrence was very early in the morning, before it was good day, and Mr. Slomp might not have been able to see clearly whether or not he handed Coomer a one-dollar bill or a five-dollar bill, would this circumstance, as thus modified, change your estimate of his condition?

A - I do not believe -- I hardly could say that it would, if his wife and Coomer both tried to convince him that it was a five-dollar bill. I do not believe that I could change my mind as to that.

Q - Now suppose that later on that same day, beginning about 10 o'clock Harv. Young and F. M. Clarkston, neighbors of Mr. Slomp, who had been sent for by him, had come for the purpose of writing his will and aiding him in the execution of the will and disposing of his property in accordance with his wishes and that they had spent all of that day up to something like 4 o'clock in the afternoon with him and during this time had discussed his business affairs somewhat fully with him; had asked him questions and had gotten sensible answers from him regarding all the property he owned, both real and personal, and that he had indicated to them in a clear and rational manner how he wanted both his real and personal property to be disposed of and had discussed with them various reasons for his

so disposing of his property, and they had drawn up these papers, had read them over to him and he had executed them, and that during this time his mental condition seemed to them to be normal and good; would you then think that his mental and physical condition was such that he was capable of making a valid will and otherwise disposing of his property in a valid way:

A - If that were the case at that time, I believe he would have done so.

Q - You have stated that at the time of the operation on his wife, September 6, 1906, you did not regard him as being capable of transacting business; I will ask you if you did not think he was capable of transacting some business, that is, doing in a rational way business acts that did not require any prolonged mental effort?

A - I do not hardly think that he would have been in condition to have transacted any business right at that time. I would not have wanted to myself.

Q - Re--Cross Examination

By Mr. Bullitt:

Doctor, assuming that the truth of the incident that has been referred to as the "five-dollar-bill-incident"; assuming that all of that occurred on the morning of November 21st, that is that Mr. Slemp did not know the difference between a one-dollar bill and a five-dollar bill, and broke down and cried about it, and after being assured by Coomer and his wife that it was a five-dollar bill instead of a one-dollar bill and he said he knew his business and that they were making a fool of him, or words to that effect; and assuming, further, that it is true that Mr. Coomer then went to Marion Clarkston, at the request of Mr. Slemp, to get Marion Clarkston to come over there, and that Coomer got back at about sometime before noon, say 10 or 11 o'clock, and that Mr. Slemp then asked him "did you get those men off the train" and that Mr. Coomer then

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X

X

Y

said to him, "I did not go after any men on the train, but went after Marion Clarkston", and Mr. Slomp replied, "Oh! yes, I made a mistake" now assuming all that to be true would not the evidence have to be to your mind very convincing that on the morning of the 21st of November and also on the afternoon that he was not entirely himself and not in a fit condition to talk about business?

A - If that were true I would judge from that that his memory was very defective or would be bad, anything along that line, especially.

Q - And could you be made to believe that his condition was such that he could talk about business in ^{the} sensible way in which Mr. Irvine has indicated, unless there was very overwhelming evidence to that effect?

A - I could hardly say just what I would think about that, positively. From the evidence of which Mr. Irvine spoke ~~WT~~, in regard to that, I believe that he could talk with fairly good mind about business matters, if it was relative to his land; more so than he could anything else.

Q - That is, you believe as you stated, that if it was really true all that Mr. Irvine stated, that he could talk about his land better than anything else; but what I am asking is, would it not take more convincing evidence to make you believe that after what I told you happened in the morning, would it not take more convincing evidence to make you believe that he immediately recovered to be himself, as Mr. Irvine's facts would seem to indicate?

A - It would be owing to his condition entirely.

Q - Would it not be a very unusual thing for a man who had a chronic case of softening of the brain, and who had gotten into such a mental condition as shown by the five-dollar bill incident and shown by the statement about what he asked Coomer about getting men off the train; would it not be a very unusual thing for a

man to immediately recover so that no one could observe any peculiarity or any mental deficiency whatsoever?

A - I believe it would be somewhat unusual for such a thing to occur.

Q - Would it not be almost incredible?

A - Not entirely so in his case, for I have heard him myself talk in just that way about people and one thing another and come back on and talk with a good mind.

Q - You would not think that while a man was one minute talking foolishly about people, that even if he did then for a time come back and talk with a good mind, you would not think that on that day he was in position to attend to business; would you?

A - I would not think that he was exactly a man of a right mind to do business.

And further this deponent sayeth not.

Signature waived.

Also the deposition of John Gilly, who being first duly sworn, deposes as follows:

Direct Examination

By Mr. Irvine:

Q - Please state your age, occupation and place of residence?

A - I am 58 yrs. old; occupation farmer, and my residence is Turkey Cove, Lee County, Virginia.

Q - Did you know S. S. Slomp, in his life time?

A - Yes, sir; I knew him ever since I was a boy.

Q - How close to him did you live the last years of his life?

A - I suppose two and one-half miles.

Q - Did you or not have business transactions with Mr. Slomp in the last year or two or his life?

A - Yes; I had a good deal to do with him. I bought his cattle; I think, I bought them in 1904 and 1905, too.

Q - What time of the year in 1905 did you buy his cattle?

A - July or August.

Q - What time did you weight them and pay for them?

A - I think some time in September or first of October. It might have been some time after this that I paid for them.

Q - State what Mr. Selmp's mental condition was when you made the trade for the cattle with him?

A - It seemed to be all right at that time. He seemed to be as hard a man to trade with as I ever dealt with.

Q - What was his mental condition when you weighted up the cattle?

A - He was about the same. The man was not well at that time. He was puny but he seemed to be all right in his mind.

Q - Where did you make the trade with him, if you recollect, for the purchase of his cattle?

A - In the field, where the cattle were.

Q - Did he come up to your house to see you at any time about the matter?

A - I think he did come up several times. He would come up quite often; every week or two.

Q - Do you remember on one occasion whether or not he left there and went across the Ridge to Mr. J. K. P. Barron's; if so, tell about that?

A - I remember when he came up one time to see me when I wanted the cattle weighed; I think it was in the fall, and he came up where I was salting the cattle, and after he got through talking to me he told me that he wanted to go over to Polk Barron's; he said he had a due bill and he wanted to let him know that he had it. He asked me how to get over and I told him he could cross about the spring, and he went off that way then. I could not state exactly the time it was, but it was in the fall.

Q - Whose spring did you tell him?

A - I told him it was Barron's spring.

Q - Did he tell you whose due bill it was?

A - It was one of the Ward boys. I think he had sold a mare and got the due bill.

Q - Did you stay all night with him when you went to weigh up the cattle?

A - No, sir.

Q - Were you at his house the night before?

A - Yes, sir.

Q - State what passed between you and him then?

A - I went over to see him that night about sundown and he asked his wife while I was there where Lee Coomer was, that he wanted him to go and get up the horses, he said we have to go over there before day and weigh up those cattle; and the next morning I think Lee and maybe Hop or Alf came with the cattle.

Q - Did you weigh the cattle up then?

A - Yes, sir.

Q - How did his mind seem on that occasion?

A - I did not see any difference in him.

Q - Did you see him any more between that and the 21st of November?

A - Yes, sir; I saw him a time or two after that. I think I gave him a check after that for a settlement of these cattle. That was, I think, in October, 1905; the same year.

Q - Do you remember where you gave him the check?

A - I think it was at his home.

Q - How did his mind seem on that occasion?

A - It seemed all right. He knew what the amount was.

Q - Do you remember whether or not you saw him any other times than that one, up to the 21st of November?

A - I do not remember.

Q - How often did you see him along about that time?

A - Along before I weighed up the cattle I seen him pretty often, but after that I was not there much.

Q - The times that you were there, what was the condition of his mind?

A - I did not see anything wrong with him at all. He did not seem to be well.

Q - You mean physically?

A - Yes, sir; but I could not see any difference ⁱⁿ his mind at all.

Q - Did you or not notice any loss of memory about that time with him?

A - No, sir.

Q - Did you later on?

A - Yes, sir; a year after that I could tell that he could not recollect one day what he did the next. It did not seem that

he could recollect. He would know business when you talked business to him, and he could trade with you right on up to a month or so before he died; it seemed that he could trade, but his mind was flighty, he could not recollect.

Q - Do you remember an occasion at Jonesville when Mr. Slemp bought from Charles Flanary a tract of land adjoining him?

A - Yes, sir; I was right there.

Q - Did you have any conversation with Mr. Slemp on that occasion about his purchase, and the purpose for which he bought it, and if so, state it?

A - Well, yes, I talked to him about it, and he said "I have bought the land of Charlie; I came here to give \$1800.00 for this piece of land, but I got it for \$1500.00." And, he said, I am all right now, I have it all together, he said I have theirs and mine all together now, just what I have been wanting for some time.

Q - Was this what is known as the "Wes Slemp" tract of land, containing about 180 acres?

A - I think there was 60 or 70 acres in each tract; there were three tracts. He owned two tracts of it at the time when he bought this Flanary piece; that is, two shares.

Q - Had Mr. Slemp ever told you prior to that occasion how he intended his property to go?

A - He had said to me two or three years before that, several different times, that he aimed to deed his land to his brothers. He said he did not have any children and he aimed to deed it to them.

Q - Did he ever have any such talk as that, in substance, with you, after that occasion at Jonesville?

A - Yes; I think he did.

Q - What was the substance of it?

A - Well, some time about the time I bought his cattle, I think it was fifteen months before he died, he said that he wanted to fix his business up and was going to fix it up right away, that he did not know how long he was going to live and was going to fix his business up.

Q - Did he say how he was going to fix it ?

A - He did not say at that time.

Q - Did he, on any of these occasions, tell you what provision, if any, he intended to make for his wife?

A - He said he aimed to leave her plenty because she had helped him make it and he aimed for her to have plenty?

Q - Mr. Slomp, I believe, had four full brothers and some half brothers?

A - I think so.

Q - In his talks with you, did he indicate which of his brothers he aimed to deed his land to?

A - His full brothers.

Q - Mr. Gilly, judging by what you saw of Mr. Slomp during the fall of 1905, and from your previous acquaintance with him and knowledge of the man, and from all that you knew or heard about him during that period; would you or not believe that he was capable on the first day of November, or about that time, 1905, of making a valid disposition of his property by will or deeds, or otherwise?

A - From what he did, I would think so. He knew all about what he was doing. It seemed to me from what I heard about the deeds and things, that it was about as he always told me that he would do.

Cross Examination by

Mr. Bullitt:

Q - Where does that Flanary land lie?

Q - It lies right over West from where I live.

Q - Does it adjoin your land?

A - No, sir; it joins Alf Slomp's land and joined on the West side of Bass Slomp's land that he had.

Q - How far is it from your land?

A - It is something like a quarter of a mile across two pieces of land that Bass first owned, from my land.

Q - Who owns that land now that Bass bought and that he deeded to Hop and Alf?

A - I reckon it belongs to Alf and Hop.

Q - Have they made any sale of it?

A - No, sir; not that I know of.

Q - Have they contracted to make any sale of it?

A - Not that I know.

Q - Have you been talking to them about buying it?

A - No, sir.

Q - You have not had any talk with them about buying it?

A - Not with them, I have not.

Q - With whom have you had a talk about buying it?

A - I have not had any talk with anybody, for I did not want it. Never said that I wanted to buy it. I think Chad Slomp named to me or asked me if I did not want to buy it. If I am not mistaken, he said that they were going to bust up the deed.

Q - You have not had a talk with Alf or Hop about it?

A - No, sir.

Q - From the time you purchased the cattle, in 1905, on to the summer of 1906, you did not have any business transactions with Bass Slomp; did you?

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A - No, sir; not after I paid him for those cattle in 1905.

Q - You did not see him except when you and he had business together; did you?

A - I did not see him much in the winter time, for I never run about much in the winter time?

Q - He did not either, did he?

A - Not a great deal.

Q - From the time you bought the cattle, in 1905, up to the time he made his will, on the 21st day of November, you did not see him but the one time when you went to give him the check?

A - I seen him several times, because he was at my house several times after I weighed them up.

Q - That one time when you saw him was the time you went over to pay him the check?

A - Yes, sir.

Q - And he had the calculation made and knew the amount before you came over?

A - Yes, sir.

Q - You do not know who made the calculation?

A - No, sir; I do not know whether he did or not.

Q - As a matter of fact, did his wife not make his calculations for him?

A - I do not know about that.

Q - His wife generally made the calculations for him?

A - She did sometimes. He could write and sign his name all right and could count some, but he was not anything expert as a calculator.

Q - How many times did he tell you that he intended to convey his lands to his brothers?

A - Different times.

Q - How did he happen to be talking to you so much about disposing of his land?

A - He just happened to be over there.

Q - Now, in 1905, when you purchased the cattle from him

and weighed them up you stated that he was not a well man; as a matter of fact, did he not when he talked about other things other than the cattle business jump from one subject to another?

A - Well, not at that time, I do not think he would at that time.

Q - Did he not at that time jump from one subject to another?

A - No, sir; I do not think he did that I saw.

Q - Not any that year, 1905?

A - I do not think so, but I discovered in the year 1906 that he did -- same year he died.

Q - You say that he told you about fifteen months before he died that he was going to fix up his business ; he realized that he was approaching death and it was time for him to fix up his business?

A - Yes, he said he was not feeling well and was going to fix up his business; he said his health was breaking down?

Q - You also purchased his cattle in 1906?

A - No, sir.

Q - Did you not go there with Mr. Bales for the purpose of purchasing his cattle?

A - Yes, sir; I went over with him.

Q - And Mr. Bales did purchase cattle that summer?

A - Yes, sir.

Q - With whom did he do the trading?

A - With his wife - Bass' wife.

Q - That was in the summer of 1906?

A - Summer before he died.

Q - What time in the summer was this?

A - I think it was in August.

Q - Bass Selmp did not attempt to make a sale of the cattle that year himself?

A - No, sir; he did not. We went there and asked him about

the cattle. I had told him I would fetch Bales there to buy the cattle and he said I have nothing to do with them, they belong to Valeria.

Q - He was not in any condition at that time to trade, was he?

A - No, sir; I do not think he was.

Q - Now, between the time that you had paid him the check for the cattle which you purchased in 1905 and this time when you went there to see him with Mr. Bales, had you seen him at all?

A - Yes, sir; I had seen him, I think, several times that summer before Mr. Bales bought the cattle. He had been over to my house a few times probably along there. He wanted me to sell them, but that they belonged to his wife.

Q - That was in the summer before you and Mr. Bales went over there?

A - Yes, sir.

Q - Outside of that time, in the summer of 1906, had you seen him at all between the time you paid him the check, in 1905, and the summer of 1906?

A - I could not say that I had seen or that I had not seen him. I guess that I had seen him some.

Q - What did you mean by "you were generally over there"?

A - I always had considerable dealings with him.

Q - Well now Mr. Gilly, do I understand you to say that You did not notice any defect at all of any kind in his mind until some time about four to six months before he died?

A - I could not tell that there was anything wrong with him until about six months before he died. I could not discover anything wrong about his mind; he was sick and was not well at all and was not able to do anything.

Q - Do you mean that you did not observe anything in his talk which indicated anything wrong with his mind until the summer of 1906?

A - No, I could not tell that his mind was wrong until some time in the summer. I could not tell that there was anything wrong in his trading line.

Q - Outside of his trading line, could you tell and see that there was something wrong with his mind?

A - No, sir; I could see he was sick. He told me his health was breaking down and was not able to do anything and he quit working and rented his land out generally for the last two or three years.

Q - Did he not rent his land out for the last four or five years of his life?

A - He always rented some land.

Q - Did he not quit working himself for the last four or five years?

A - I do not think he did.

Q - You had heard for two or three years before he died that his mind was failing him, had you not?

A - No, sir; I do not know that I had.

Q - Did you not hear as early as the summer of 1905, about wheat threshing time, that his mind was failing him?

A - No, sir; I did not, that I know of.

Q - When was the first time that you ever heard his mind was failing him?

A - I think it was in the spring of 1906. That was some time before he died, either six or eight months.

Q - Was not Bass Slomp a man who talked very little and kept his business very much to himself?

A - He did not talk very much.

Q - He made a special confident of you then as to how he would dispose of his property?

A - He generally did. He depended almost all the time on me selling his cattle for the last ten years before he died. I did not sell them every year, but most of the time I either bought them or sold them one.

Q - And he talked with you most every time he saw you about how he was going to dispose of his property?

A - No, sir; not every time.

Q - How many times did he talk to you about that?

A - I could not tell you.

Q - About how many?

A - I suppose six times or more.

Re-direct examination by

Judge Duncan

Q - Mr. Gilley, did you ever at the request of Bass Slemp, see an attorney for him here at Big Stone Gap, or anywhere else about Mr. Slemp wanting his will written?

A - Yes, sir; it seems to me that way, that he spoke to me about it; seeing an attorney how he thought the best thing to make his will or deeds, whatever he made. I think he did.

Q - At that time did he tell you how he wanted to dispose of his property?

A - Yes, sir; he said that he wanted to deed this land or make a will for this land to his brothers, the same as he had always been talking. I think it was eighteen months or two years before he died. He asked me, if I am not mistaken, to see a lawyer.

Q - Did you see any lawyer for him?

A - It seems to me like I talked with Mr. Bullitt, but I am not sure who, and I think their advice was in place of making wills was to make deeds to his lands; but I do not know whether it was Mr. Bullitt or some other lawyer.

Q - Did you tell Mr. Slomp what Mr. Bullitt, or whoever the lawyer was, told you?

A - Yes, sir, it strikes me that I told him.

Q - You told Mr. Slomp what the lawyer said?

A - Yes, sir; he said it was best to make deeds for the land.

Questions by Mr. Bullitt -

Q - This was about eighteen months or two years before he died?

A - Yes, sir; I think it was.

Q - Why did he want you to see a lawyer instead of seeing him himself?

A - I could not tell you that. He said he wanted to fix his business up and he wanted me to see how it could be best fixed up.

Q - Was he in condition then that he could not attend to that business himself?

A - I suppose he could.

Q - He thought then that early that it was best to get you to get a lawyer for him?

A - He generally came to me for much of his advice.

Q - Are you a lawyer?

A - No, sir.

Q - Did you ever make a will?

A - No, sir.

Q - Never had anything to do with making one; did you?

A - No, sir.

Q - You are not looked upon as knowing any more law than the law allows, are you?

A - Not a bit.

Q - So he was afraid at that time that some of the heirs would set aside a will?

A - He did not say.

Q - Did he seem to have any fear that some of the heirs would try to upset his will?

A - I do not know. He said he did not want any hereafter about it.

Q - He did seem then to think that there might be a hereafter about it?

A - I do not know.

Q - That was as early as eighteen months or two years before he died?

A - Yes, sir.

Q - He probably realized then, even at that early date, that there might be a question as to whether he would be mentally capable of making a will?

A - I do not know about that.

Q - Did he talk to you about that?

A - No, sir.

Q - Did not say whether he thought there would be a hereafter?

A - No, sir. He said he wanted to fix up his business and wanted to know the best way.

Re-re-direct Examination

By Mr. Irvine:

Q - Mr. Gilly, one question we forgot to ask you on direct examination: do you know Will Coomer?

A - Yes, sir; I know Will.

Q - Do you know the people with whom he lived up until recently, in Turkey Cove?

A - Yes, sir.

Q - Do you know Will Coomer's reputation for truth and veracity among those people?

A - Yes, sir; he was not much good.

Q - Judging ^{him} from that reputation would you give him full faith and credit on oath?

A - No, sir; I could not think so. He sold his vote and a man who sells his vote I could not give him much credit for anything.

Re-re-Cross Examination

By Mr. Bullitt -

Q - Did you ever buy his vote?

A - No, but I know of other men who did.

Q - Did you furnish the money?

A - Not of late days.

Q - Not for a year, do you mean, John?

A - I do not know about that.

Q - John, so far as the dealings you have had with Will Coomer yourself, do you not think he is honest?

A - Well, he never paid me.

Q - Has he not been straight and honest and always told you the truth?

A - No, sir.

Q - What has he ever told you an untruth about?

A - Will lie on any kind of business.

Q - What has he ever told you a story about?

A - He told me he would do so and so and never would do it. He would promise you to do things and not do them.

Q - Is that the only kind of a story he would tell you?

A - I have known him to tell stories.

Q - What stories have you ever known him to tell?

A - Tell stories on election and say he was going to vote for one man and sell out to another.

Q - Well, you, yourself, have told a good many stories on election? You would not disbelieve a man on oath because he told a story about election?

A - His general reputation was not good.

Q - Do you know him well?

A - I have known him eighteen years.

Q - He is a plain, unassuming sort of a man?

A - Well, I do not know about that. He is a fellow that has not got very much and never cares whether he has very much or not.

Q - He works for a living?

A - I suppose he does.

Q - Did you ever see a man who can look you straighter in the eyes than Coomer?

A - I do not know as I have, but I reckon that I have.

Q - You do not know or any story that he ever told except that he would say he was coming to work and would not come?

A - He owed me and never paid.

Q - You think a man that does not pay his debts cannot be believed on oath?

A - I cannot say that all the time.

Q - Who did you ever hear talk about Coomer being untruthful?

A - Different people.

Q - Well, who?

A - I do not know that it is necessary to tell everybody. Well, I have heard all the Slemps talk about that. I have heard Bass Slemple say that himself, that there was no dependence in Coomer and I have heard Marion Clarkston say so, and I have heard Alf Slemple say that there was no dependence in him, and Hop Slemple and Polk Barron.

Q - When did you hear Alf Slemp talk about him?

A - A good while ago; last five years.

Q - More especially the last few days?

A - No, sir.

Q - When did you hear Hop Slemp talk about him?

A - When he lived over there with Hop.

Q - When did you hear Bass Slemp talk about him?

A - About the same time.

Q - As a matter of fact, Bass Slemp rented to him years and years before he died?

A - I do not know that.

Q - Do you not know that he rented land to him for some 15 or 18 years before he died?

A - I do not know whether he ever lived on Bass' land or not, but his father did rent for ten or fifteen years, but this boy, I do not know whether he rented much or not, but I think he lived on Bass' land next to Hop.

Q - Do you think Bass Slemp would have rented to him if he thought him such a low-down fellow as you speak of?

A - I suppose he would have rented to any one as hard as hands were to get to work.

Q - Mr. Gilley, you are very much interested in this case, are you not?

A - Not a bit sir.

Q - Are you not very much interested in helping the Slemp boys to win this case?

A - No, sir.

Q - Have you not been talking around a good deal among different people?

A - Not at all. I told the Slemp boys what I knew.

Q - How long have you been telling the Slemp boys what you know?

A - Before Bass Slemp died.

Q - Been talking about this case even before he died, have you?

A - What he intended to do.

Q - Have you not been talking about his condition and what you knew, ever since his death, to them?

A - No, I do not know that I did.

Q - You talked to Harv Young about it, have you not?

A - I do not know whether I did or not?

Q - When did you first commence talking to the Slemp boys about Bass' condition?

A - I do not know when.

Q - When did you first commence talking to them about his condition before he died?

A - I told them two or three years before he died what Bass said he intended to do.

Q - He talked to you about what he intended to do and not to them?

A - I do not know about that.

Q - What occasion was there for you telling them if they already knew it?

A - We were just talking about it. I told them that Bass told-me that he intended to deed them that land.

Q - How many times did you tell them that?

A - I do not know how many times.

Q - And they never said anything to you to indicate that Bass himself had told them that?

A - No, sir, they never said.

Q - If Bass, himself, had told them that, they kept that information back from you?

A - Yes, sir, they never said anything at all.

Q - Well, now John, had you not been talking about Bass Slemp's condition ever since he died?

A - I have talked a great deal.

Q - There was a great deal of talk from the time he died as to whether his will would stand?

A - Yes, sir; there was a great deal of talk when he died.

Q - It was not generally known until he died that he had made a will; was it?

A - Yes, sir; I think I heard Mr. Clarkston say directly after he had made it that he had made it and that he had done the writing, but I did not ask him what was in it. Mr. Clarkston told me that.

Q - The reason that there was a great deal of talk as to whether it would stand or not, was that there was a great deal of talk about his mental condition?

A - Well, there was a great deal of talk the summer before he died whether the will would stand or not?

Q - Was there not a good deal of talk two summers before he died about his mental condition?

A - I do not know that there was.

Q - Can you say that there was not a great deal of talk two summers before he died about his mental condition?

A - There was right much talk about him being sick, but nothing said about his being in a bad mental condition.

Q - Do you mean to say that there was not much talk about his mental condition, or that you did not hear any?

A - No, I did not hear it, or know who talked so.

Q - Did not Bass Slemph, himself, before he made his will, have more or less doubt about his mental capacity to make a will?

A - Why, he said that his health was going down and he wanted to fix up his business.

Q - Did he not have more or less doubt about his mental capacity to then make a will that would stand?

A - He said he wanted to fix his business up and had not been feeling well and that he did not know how long he was

going to live and wanted to fix his business up before he died.

Redirect Examination

By Mr. Irvine

Q - Mr. Gilly, state whether or not you have any pecuniary interest of any kind directly or indirectly in this matter?

A - I have not any at all.

Q - Are you related or connected in any way with these parties?

A - Yes, sir; I am connected with all of them.

Q - Are you connected as much with one set as the other?

A - I am not connected to the half brothers and sisters; I am not connected to them at all, but I am connected to all of his brothers and full brothers and sisters.

Q - What connection.

A - We are cousins, first cousins.

Q - Have you any prejudice in the case one way or the other?

A - No, sir; I have not.

And further this deponent sayeth not.

Signature waived.

Also the deposition of W. S. Coldiron, who being first duly sworn, deposes as follows:

Direct Examination

By Mr. Irvine:

Q - Please state your age; occupation and place of residence?

A - I am 49 yrs. old; occupation farmer and live at Turkey Cove, Lee County, Virginia.

Q - What official position, if any, have you ever held in Lee County?

A - None, except Post Master.

Q - You were, I believe, named by your party for the Legislature for Lee County.

A - Yes, sir.

Q - Did you know S. S. Slomp?

A - Yes, sir.

Q - How close did you live to him?

A - Something like a mile and a quarter.

Q - How long did you live there prior to his death?

A - I moved there in 1889 and lived there ever since.

Q - Did you or not visit Mr. Slomp occasionally in the last year and a half in his life?

A - Yes, sir.

Q - Do you remember of going to see him in the summer of 1905 or early fall, at the time he was reported to have had a fall from a sled and a spell of sickness followed?

A - Yes, sir.

Q - Please state the time and circumstances, and what passed between you on that occasion, as near as you can?

A - The news came to me in some way that Bass was sick, and we had always been good friends and neighbors, and I decided I would go up to see him, and I went up and he was sitting out - to the best of my recollection - in a big rocking chair on the veranda, and I asked him about his trouble and he said that he was hauling oats on a sled and he had a big top load on and he had to cross a ditch or drain and the front end of the sled went down into the ditch and threw the load off and he was on the load and he went off first and the oats after, and he said the first place struck was the back of his neck between the shoulders and he said it shocked him up pretty much and hurt him for a while, but he went on about his work, and he said he thought that was the cause of his sickness.

Exception by Mr. Bullitt

As to what is said about Bass Slomp falling from a sled is objected to because hearsay, and irrelevant.

Q - Can you state whether or not this was on the occasion of threshing the wheat of himself and his brothers, Hop and Alf?

A - I do not remember that. He just told me about falling off of the oats.

Q - State, please, his physical and mental condition as you found it on that occasion?

A - Well, he seemed to know everything, or it seemed to me that he did as much as he ever did, on that occasion.

Q - Did you notice any lapse of memory or flightiness of mind?

A - Not then.

Q - How long did you talk to him?

A - I could not say, I expect an hour or more, maybe two hours.

Q - State whether or not you occasionally visited him after that?

A - Yes, as long as he lived.

Q - Can you now tell how often you visited him from the occasion you first mention up to the close of the year 1905?

A - No, I could not, because I did not really pay any attention to it because I never thought of this being brought into question, and I visited him when an opportunity presented itself. I might possibly have gone twice a week and maybe two weeks would go by that I would not visit him.

Q - State his state of mind as you found it during these visits you have referred to during that following fall and early winter?

A - Well, I do not think that I detected anything that would cause a man to believe that his mind was wrong up to along some time that winter, and he seemed then to have his mind very well except the first thing I seemed to detect was that his memory was bad; he could not remember things.

Q - On this occasion, did you talk business as well as social matters with him?

A - Well, now sometimes; I think that was shortly after he got sick. He had two mules and he tried several times to sell them to me and he would price them to me in a way but I thought the price was too high and I never even went to look at them, and I could not handle them at that price he put on them. I did not have any use for their service myself and I could not handle them at the price he asked, so I did not go to see them.

Q - State whether or not in discussing this subject he talked in a sensible and sane way?

A - He seemed to talk as sensible as I ever heard him talk.

Q - State whether or not he talked over his affairs with you in any way as to his lands and other things?

A - I do not think that he ever did.

Q - Judging from what you saw of him during the visits you referred to and from what you knew of him, would you think he was capable of disposing of his property by will and deeds on the 21st day of November of that year, 1905?

A - On the 21st day of November, I expect I would. In fact I never did know when he made his will.

Q - You have said a while ago that you did not notice any mental trouble until some time in that winter?

A - Yes, sir.

Q - Well, now if the will was made on the 21st day of November preceding, what would your answer be to that question?

A - I would think that he was in his right mind at that time. The first that I noticed of his mind being flighty or recollection bad; I know was one time in November when I was over there and there were some other parties there and it generally is not bitter cold in November, and he had the

door closed and a big fire built up, but it was a little chilly.

Q - What was it about him on that occasion that called your attention to his mental condition?

A - I could not answer that because I stayed there some time and I talked and others talked and we all talked through and through, and it was understood, I know; and I talked with some person, but I do not remember who it was I talked with, about Bass talking bad in remembering things, but I do not know just what it was. I know it was talked among us that his recollection was defective.

Q - After you began to notice this; please state how it manifested itself?

A - Well, it seemed to get worse.

Q - What form did it take; I mean, did he forget everything or just some things?

A - He knew some things as long as he lived; that is, I visited him; it was the second or third night before he died and he was laying in the bed then and it looked like he was going to die, could not live, and there was something that happened, I do not remember just what it was, but any way I was sitting close to the bed and I think he wanted a drink of water and some one raised him up in bed and I gave him a little water and meant to give him another and he just turned his eyes over and said "Will, I do not want any more." I think it was the second or third night before he died. Now all the time I visited, he would talk as sensible as any man for a little bit and later on he would ask questions as to what had been said.

Q - How long before his death as near as you can fix it did this state of things exist with him?

A - Well, I could not say; I really do not know when he died.

Q - He died on the 22nd of November, 1906.

Q

A - It was some little time; I just could not say.

Q - Did he go to the polls and vote at the November election, 1906?

A - Yes, sir.

Q - Did he go in by himself when he went to vote?

A - Yes, sir; he went to vote; I think he went in the buggy, and when he got out of the buggy and went up to the gate why they had the ropes up and were pushing back and there were three or four wanting to get in and I went up to them and I said, boys, stand back and let Bass go in and vote next; yes, he said, let me go in and vote, I am feeling awful bad.

Cross Examination

By Mr. Bullitt:

Q - In what election was that?

A - That was in the Slemp election.

Q - That was when Colonel Slemp was running for Congress?

A - Yes, sir, in 1906.

Q - Colonel Slemp was his cousin; was he not?

A - Cousin, I reckon.

Q - You mean first cousin?

A - Yes, sir; I think so.

Q - Now, the first time that you noticed that his mind was wrong, was in the early part of the winter of 1906?

A - It was in the winter, I do not know whether it was in the early part or not.

Q - You could not say whether it was in December or the last part of November; could you?

A - No, I could not positively, because I do not know just when it was.

Q - At that time it was quite noticeable; was it not?

A - Well, as well as I remember, that was the first time that I had ever detected it, me and some others, and I know we talked to each other about it, that Bass was losing his recollection.

Q - You thought at the time he was losing his mind; did you not?

A - No.

Q - Is there much difference between one losing his recollection and his mind?

A - Yes, sir; I think there is. When a man loses his mind he is going crazy. He would go on and tell a thing and tell it intelligently and maybe a half hour he would ask about what he told.

Q - From the questions which he asked indicated that he did not remember what happened or what he talked about one half hour before?

A - Some things he would remember.

Q - That was so noticeable that it caused all the parties to talk about it?

A - Yes, sir.

Q - Now, from that time on you do not think he was capable of transacting business?

A - I do not know about that; he might have been or he might not. I know one thing, if I were going to do business with him and he had offered a thing to me for any less than what it was worth, I would not have taken it.

Q - You would have been afraid the trade would have been upset?

A - Yes, and I naturally would not have wanted the reflection.

Q - You do not remember whether you saw him about the 21st of November?

A - No.

Q - You did not go over there each week or every two weeks during the fall of 1905?

A - I could not say about that.

Q - It might have been three, four, five or six weeks?

A - No, not that long; it might have been two or three weeks.

Q - Now, on the occasion when he told you about having fallen off the sled, you do not know whether that was wheat threshing time or not?

A - Do not know.

Q - From something that you said during your examination in chief I got it that that was along in the fall; is that correct?

A - It was along in the fall or latter part of the summer.

My recollection is that it was oats that he was hauling.

Q - It was not as early as July or August?

A - No; it might have been, I do not know.

Re-direct examination

by Mr. Irvine:

Q - Mr. Coldiron, I forgot to ask you on direct examination about Will Coomer; do you know him?

A - Yes, sir.

Q - Do you know the people among whom he has lived in Turkey Cove?

A - Yes, sir.

Q - Do you know his reputation for truth and veracity among those people.

A - Well, I do not know as far as truthfulness is concerned; but I do not think he stands good.

Q - Do you know what his reputation for truth and veracity is?

Objection by Mr. Bullitt

Question is objected to because the witness has already

stated that he did not know about his reputation for truth and veracity.

A - I do not think it was very good.

Objection by Mr. Bullitt

Answer objected to because the witness has not stated what the general reputation is for his truth and veracity.

Q - Do you know what his reputation is among those people?

A - I think it is very tough.

Q - Do you know what it is?

A - I think I do.

Q - Now I ask you what that reputation is?

A - Well, his reputation is not good.

Q - Judging by that reputation, could you give him on oath full faith and credit?

A - Well, that depends on circumstances. In some cases I might and in others I might not. I look at anything like that in this way: in a case where a man is directly interested he might not give him full credit, but in a case where there is no interest to him whatever, he might swear the truth.

Q - Re-cross Examination

By Mr. Bullitt:

Q - Mr. Coldiron, do you know Coomer well personally?

A - Yes, sir.

Q - So far as you have ever known he has been truthful; has he not?

A - I do not know that I could state that.

Q - Has he ever told you any untruth?

A - Yes, sir.

Q - Of what nature?

A - Well he has told me some. Now, I sold goods down there and he was a man that I never wanted to credit much, but he

came and made excuses and he said he would pay them in a few days and he never has paid me a cent.

Q - Outside of his failure to pay his debts, have you ever known him to tell a malicious lie on any one?

A - I will explain the circumstances: I ran two stores in Turkey Cove once, and I had a man by the name of Kelly to run the store at home and I ran the upper store, and I cautioned Kelly about crediting Coomer, and I went home one Saturday evening and I went to looking over the books and I found a suit of clothes there charged to Will Coomer, for \$12.50, and Mr. Kelly said he said he had some corn and he aimed to bring the corn to the upper store and pay me for the clothes. I went to inquire about it and I found he never had any corn.

Q - When was this?

A - I expect it was in 1893.

Q - That is almost barred by limitation?

A - I guess it is.

Q - And that is about all you know about him that is wrong?

A - Yes, sir.

Q - Never been charged with stealing?

A - I do not know it.

Q - You never heard any one say that they would not believe him on oath?

A - Not that I remember.

Q - Never heard anybody questioning his veracity except in promising to pay?

A - No, I do not know that I have.

Q - There are a great many men over the country that make promises to pay and do not pay?

A - Yes, sir.

Q - Now, you have spoken about a man having an interest; do you not think that Coomer, living down there among the

four brothers, knowing them as you do, would have more of an interest to testify in their behalf than he would have to testify for Mrs. Wampler?

A - I could not answer that question.

Q - A fellow that does not get along with the Slemps in that connection is a pretty bad mess?

A - There are a good many Slemps there and they are very ambitious.

Q - You do know they are an ambitious set?

A - Yes, sir.

Q - What do you mean by ambitious?

A - I mean that they are not going to be run over by anybody; they are going to depend upon themselves.

Q - You mean pugnacious?

A - Yes, sir.

Re-re-direct Examination

By Mr. Irvine:

Q - Mr. Coldiron, did you or not mean by "pugnacious" that they are fighting people physically?

A - No, sir; I never heard of them fighting. I mean that what they think is right pertaining to their business they are going to stick to it.

And further deponent sayeth not.

Signature waived.

Direct Examination

John J. ^eRasor, another witness of lawful age, being first duly sworn, deposes and says:

By Mr. Irvine:

Q - Mr. ^eRasor, state your age, place of residence and your occupation?

A - I am 28 yrs. old; live in Turkey Cove, Lee County, Va. I am farming a little.

Q - Did you know Bass Slemp in his life time?

A - Yes, sir.

Q - How long had you known him?

A - Known him all my life.

Q - How near did you live to him?

A - Something like a half mile or three-quarters.

Q - State whether or not you had any business transactions with him the year before he died, and about how long it was before he died?

A - Well, about something like 14 months before he died I sold him a couple hogs. He came there and wanted buy some hogs and he went and looked at them and I sold them to him. We weighed them at the scales and he paid me some \$22.40; I believe he had three ten-dollar bills in his pocket, and I did not see Mr. Slemp any more until after the election and when I seen him he paid me the rest of it.

Q - Did you mention it to him or he to you?

A - He mentioned it to me. I was Clerk at the election and he came in to vote and he asked me if he did not owe me a balance on the hogs and he paid me.

Q - State whether or not you discovered ^{at} that time whether there was anything wrong in his mind or in his ability to transact business?

A - Well, I could not see anything wrong with him.

Q - State whether or not you saw him pretty frequently after that?

A - Had not, until he had taken his bed sick.

Q - Did you have any business transactions with him of any kind during the summer he died?

A - Nothing except a wild mule he wanted worked and he sent for me to work it for him. He sent a man and we caught the

mule and I worked it. I went to see Bass and called him out and told him I had his mule and he said; yes, he would be glad if I would work it. I told him I would take the mule and do the best I could with it.

Q - At that time, state whether or not you discovered anything wrong with him, and whether or not you regarded him capable of transacting business?

Objection by Mr. Bullitt

Question objected to because the witness has not shown that he is an expert or that he had sufficient opportunity to judge whether he was capable of transacting business or not.

A - Well, I could not state whether he was capable or not.

Q - You have not answered the first part of the question; which was, if on that occasion you saw anything wrong with him?

A - I do not believe I discovered anything wrong.

Q - Did you see him any more after that, before he got sick, in his last sickness; if so, where?

A - I do not remember of seeing him until about three weeks, I suppose, before he died. A couple of weeks before he was taken down sick he came to my house to see something about getting a mule to haul coal for him.

Q - Was he by himself or was there someone with him?

A - By himself.

Q - Was he walking or riding?

A - Walking.

Q - How far was that from home?

A - About one-half mile or so.

Cross Examination

By Mr. Bullitt:

Q - On this last occasion, he said to you that he wanted to get you to haul some coal?

A - No, wanted to get the mule.

Q - How long did you talk with him on that occasion?

A - I suppose he did not stay more than ten minutes.

Q - Did you observe anything wrong with him on that occasion?

A - He did not seem to be exactly right.

Q - Did he not seem to be very far from right?

A - No; he did not stay very long -- he complained of his head swimming.

Q - He did not stay there long enough for you to judge of his mental condition?

A - No, I suppose not.

Q - At the time that you sold him the hogs, did he come to your house?

A - Yes, sir.

Q - How long did he stay there then?

A - He did not get off his horse.

Q - You just had a few minutes talk?

A - Yes, sir; just a few minutes.

Q - When he came to see the hogs, Coomer was with him?

A - Yes, sir.

Q - In fact, Coomer generally went with him?

A - Well, I did not see Bass many times.

Q - Is it not a fact that Coomer did go with him when he went away from the house for any time?

A - I could not say about that.

Q - When he paid you the \$2.40, on election day, did he have the exact change? A - I believe he did.

Q - His wife, Mrs. Slomp, counted the exact change out for him before he left home?

A - I do not know about that.

Q - You do remember that he had the exact change?

A - I believe he did, but I would not be positive.

Q - Who counted out the \$2.40 to you?

A - He did.

Q - His wife was not with him?

A - No, sir.

Q - And Coomer had nothing to do with counting the money or paying for the hogs?

A - No, sir.

And further this deponent sayeth not.

Signature waived.

Also the deposition of J. B. F. Olinger, who being first duly sworn, deposes as follows:

Direct Examination

By Mr. Irvine:

Q - State your age; your occupation and place of residence?

A - My age is 36 yrs.; my occupation, farming; residence Olinger, Virginia.

Q - Did you know S. S. Slomp in his life time?

A - Yes, sir.

Q - How close did you live to him during the last few years of his life?

A - I suppose somewheres near two miles.

Q - Did you see him occasionally in the last year and a half in his life?

A - Yes, sir.

Q - Did you have any business with him?

A - Nothing more than pasture for me for the year 1905 and 1906.

Q - Please state your circumstances in getting this pasture in the year 1905?

A - Well, he and I was at Big Stone Gap together and was going home and we were talking and I mentioned to him about getting pasture for my mare, and he said he hardly ever pastured, and I kept on asking him and finally he just said, I will not tell you to turn her in, but if you turn her in, take her over and turn her in where Coomer lives, and he said he would charge me \$1.75 a month, and I pastured the mare possibly two months or so, and I went then to pay him - it was some little time after I had taken the mare out - and when I paid him I was going to somewhere else and went by his house, but before I got to the house I seen he and Lee Coomer coming along toward the house and I got up to them and stopped and talked a little and I told him that I wanted to go by that way to pay him for pasture I owed him and I told him I had it counted out and he said that was all right, and I paid him there, and I rode on somewhere else.

Q - What time was this occasion that you paid him this money with reference to wheat threshing time?

A - I think that wheat threshing time was just over maybe a week or two after wheat threshing time.

Q - Did you or not see Mr. Slomp at his home a week or two before this?

A - Yes, sir.

Q - Was he sick at that time?

A - Yes, sir; he was sick and had been sick some two or three days. I had heard of it. He was sick at that time, and had been for two or three days.

Q - Had the thresher left his place then at the time you saw him?

A - They were not there then, they were at John Barker's place threshing oats for Tip Rasor.

Q - Did you go in to see Mr. Slomp and have a talk with

him on the last named occasion?

A - Yes, sir; I talked on the porch, and maybe I ate dinner there.

Q - Did you discuss with him his sickness?

A - Yes, sir. He was talking about his sickness some along with the other talk we had.

Q - Did he tell you why he was sick?

A - No, I do not think he did.

Q - Please state the condition of his mind on this last named occasion, that is, when you were at his house?

A - Well, I did not see anything wrong with his mind at all. He did not talk as much as he usually did when he was not sick.

Q - Had he gotten up out of bed?

A - He was not in bed at all, I do not think. He was sitting on a chair on the porch.

Q - If his mind had been wrong, would you or not have seen some evidence on that occasion?

A - It looks as if a man would have discovered it, but I did not notice anything that I could tell that his mind was wrong at that time.

Q - What was the condition of his mind the day you met him in the road and paid that money?

A - Well, I did not talk more than a few words with him and I did not see anything wrong with his mind. He said he was still puny, but he was better than he had been.

Q - You spoke of renting from him, please describe that?

A - The next spring, the spring of 1906, I wanted to pasture my mare again with him and I went to his house and stayed there maybe an hour and we sit and talked a while, and I told him I came over to see if I could get him to pasture my mare again and he said I cannot pasture for anybody, but he said if I had not promised to pasture your mare I would not pasture her. I said what about the price, will you charge me

the same; he said I will have to charge you a little more; two dollars this year. I said that was all right, and he told me I could pasture her where I had her last year.

Q - How was his mind on this occasion?

A - If he talked anything out of the way I did not discover it. I could not say but what his mind was good. He knew what he was doing but he did not talk as much as he had before he ever got sick, but then when I was talking business with him he seemed to know what he was talking about.

Q - What time was this last occasion; what month?

A - I do not know the exact month; it was in the spring of the year. I guess it was in April or first of May.

Q - Well, did you put your mare on the pasture?

A - Yes, sir.

Q - How long did she stay?

A - She stayed a little over three and a half months. The pasture was a little over seven dollars and ten cents.

Q - When did you settle this?

A - I settled it along in the fall. It was some little time after I had taken the mare out; maybe two or three weeks.

Q - That was along about September?

A - I think it was along about the first of September. I took the mare home about the latter part of August or first of September.

Q - State how and where you paid him this?

A - I went and paid him at his house.

Q - What was his mental condition at that time?

A - Well, I could not see anything wrong with his mind, and I told him I came to pay for the pasture and I said I could have paid it before now, but I was busy and he said that was all right. I pulled the money out and I said I have counted it \$7.10, and I said you can count it, and he said, well I guess there is no use, I suppose you have counted it right.

Q - Did you see him on any occasions between the time you have referred to when you met him in the road a week or two after his sick spell, when he was with Lee Coomer, and the time you went over to rent, in April or first of May following?

A - The time I rented the second time?

Q - Yes.

A - Yes, sir; I visited him during his sickness most all the time. During the time he was taken sick until he died I guess I was over anywhere from six to twelve times.

Q - That would make an average of once a month?

A - Yes, sir; something near that.

Q - Can you not state whether you did go over on an average of about once a month?

A - Well, I guess on an average of at least five weeks. Sometimes probably I would not go for two months and sometimes not for two weeks.

Q - Did you see him at other times off of his place, away from there?

A - Yes, sir; I saw him at Olinger a time or two, and he passed by my house a time or two.

Q - Did you talk with him on any of those occasions?

A - I do not know that I did; I sometimes talked a little.

Q - Well, you have spoken of going to his house several times during the period mentioned; state whether or not you talked with him when you went there, and if so, ^{about} how much?

A - Yes, sir; when I went to see him I would generally stay two or three hours and sometimes he would be laying on the bed; just on top, with his clothes on, and I would go in and talk to his wife and directly he would get up and talk too. About once or twice I remember he would be sitting on the bed. Very often I went and ate dinner with him.

Q - State now what was his mental condition between now and the times you have referred to before; that is, between the time when you described, when he was in the road with Lee Coomer, and the time when you went to rent pasture the second time?

A - Well, sir; I could not say that I ever seen anything wrong that I could discover with his mind; he did not talk anything like flighty that I could discover. He did not talk as much as he usually did when well.

Q - Did you discover any loss of memory or anything of that kind?

A - I would not say whether I did or not; I do not think that I discovered any loss of memory about him. I could not say that he talked like he did not have his memory about him.

Q - Judging now, Mr. Olinger, from your knowledge of the man; your acquaintance with him and from your seeing him on the occasions which you have testified to, would you or not say that he was capable of making a good will and disposing of his property in a valid and legal way on the twenty-first of November, 1905?

A - Well, now, at the times that I had seen him I could not state that I saw anything wrong with his mind.

Q - Judging from his condition at the times you saw him would you not say that he was capable of making a valid will on that date?

A - Yes, sir; I should say so.

Q - Do you know Lee Coomer?

A - Yes, sir.

Q - How long have you known him?

A - I have known him ever since he was a little kid.

Q - Do you know the people among whom he has lived in Turkey Cove?

A - Yes, sir; I suppose so.

Q - You know the people down there?

A - Yes, sir.

Q - Now, do you know his reputation for truth and veracity among those people?

A - Well, I have heard a good deal of talk that he very often did not tell the truth. I do not know more than I have heard people talk. I never had any dealings with him.

Q - Judging him from the reputation that he has for truth and veracity among those people could you give him full faith and credit on oath?

A - Well, where a man bears that reputation, it is not supposed that a man would give him full credit on oath.

Q - Do you think you could?

A - I hardly think so.

Q -

Cross Examination

By Mr. Bullitt:

Q - Mr. Olinger, what you heard people say was that he did not live up to paying his debts generally; was it not?

A - Well, I just heard people say that he would tell a lie; was not a truthful man.

Q - Who have you ever heard say that?

A - I could not say that I could recall that right now, but I have heard that for years.

Q - Can you not remember any body that you heard say that?

A - Well, I believe I have heard Mr. John Gilly say something about that he was right smart of a liar.

Q - Anybody else?

A - Well, I could not exactly recollect of anybody else.

Q - When did you hear John Gilly say that?

A - Well, I could not state exactly the time?

Q - Are you related to Hop Slomp, Dave and John Slomp?

A - No, sir; I reckon not; if I am I do not know it.

Q - Now, if I understand you, so far as you saw, you did not observe anything wrong with Mr. Slomp's mind at any of these times that you saw him?

A - Not that I can think of, sir.

Q - You continued to see him up to the time of his death?

A - No, it was probably some little time; maybe three weeks or month before he died.

Q - No time that you saw him did you discover anything wrong with his mind?

A - No, sir; not that I could notice.

Q - You think then he was capable of transacting business up to the last time you saw him?

A - I saw nothing wrong with his mind.

Q - You think then he was capable of transacting any sort of business up to the last time you saw him; namely, three or four weeks before his death?

A - Yes, sir; so far as I know.

Q - You did observe that he was very much changed?

A - Yes, sir; sometimes he did not talk as much as other times.

Q - That was apparent when you first rented pasture from him, in the summer of 1905?

A - Yes, sir; I rented in the spring of 1905.

Q - It was in the summer of 1905 that you first rented; was it?

A - I said in the spring of the year, about pasturing time.

Q - And it was apparent then that he did not talk as much as usual?

A - He did then, for he had not been sick then -- not till wheat threshing time.

Q - From wheat threshing time on he did not talk as much as he usually did?

A - No, sir.

Q - Was there a good deal of talk from wheat threshing time up to the time of his death that he was losing his mind?

A - I think I heard some talk of that sir; that he had lost his mind to some extent.

Q - Was it not pretty generally talked in the country down there to that effect?

A - As I say, I heard some talk about it.

Q - When you saw him, did he talk anything by which you would be able to judge whether he had lost his mind or not?

A - As I said, he did not talk as much as before he took sick, but I could not discover there was anything wrong.

Q - Did he talk enough for you to be able to form a good judgment on the subject?

A - I think so, sir.

Q - And you never saw anything wrong with him at all up until the last time that you saw him?

A - No, sir.

1-

Jonathan Ward, another witness of lawful age, being first duly sworn, deposes as follows:

Direct Examination

By Judge C. T. Duncan

Q - State your age, place of residence and occupation?

A - I am 64 yrs. old; reside in Turkey Cove and am a farmer.

Q - Were you acquainted with S. S. Slemp in his life time?

A - Yes, sir.

Q - How long did you know Mr. Slemp?

A - Well, we used to go to school together and I knew him during the war, and I have been acquainted with him ever since the war. I reckon we lived about a mile apart for 25 yrs. and I collected tax off of him for about 9 yrs.

Q - How near did you live to him for the last year or two of his life?

A - I judge something like a half mile. I lived at Dr. Gilmer's place, just across the hill.

Q - What year did you go to live at the Dr. Gilmer place, and what time of the year?

A - Went there the 9th of October, 1905.

Q - Did you hear of the fact that Mr. Slemp had made his will and some deeds?

A - Yes, sir; I heard it the next morning.

Q - How did you hear of it, or who did you hear it from?

A - F. M. Clarkston.

Q - Had you seen Mr. Slemp any time shortly before that?

A - Yes, sir.

Q - State the circumstances?

A - About a week before that he was at my house; he came to see about some turkeys. He had a couple stacks and Mrs. Gilmer had several turkeys and they were getting on the stacks and he wanted to know whose turkeys they were and I said they

were Mrs. Gilmer's; he said I wish you would tell her to do something with them, but I said I could not keep them off the stacks, because there were too many, and I asked him to get down off his horse and come in, and he said he did not have time. I said, Bass, where did you get that horse, and he said I got it from Joe Asbury. I said get down and rest a while; he said can you 'phone up and find out how Mrs. Wampler is, I said yes, and he came in and we 'phoned and they said that she was a little better yesterday evening but they had not heard this morning, and he said she would never get well, but would die. I got some whiskey --- we had been on some sprees in our time -- and he said he could not drink; he said he was taking medicine; and he would not drink a drop, and that is about all that passed.

Q - How long was he at your house that day?

A - I expect he was there from the time he came, about an hour. He was sitting on the mare until the time he came into the house to 'phone.

Q - On that occasion, did you discover anything wrong with his mind?

A - No, sir.

Q - How long after that until you saw him again?

A - It was not very long -- I started to Dave Slemms, there was to be some surveying done and I saw him then outside of his house. He had a sort of an old striped cap on and he spoke to me and I said good morning, and he said go on to the house and he said we will be in directly.

Q - Was that after Marion Clarkston had told you that he had written his will?

A - Yes, sir.

Q - Did you see him any more?

A - Yes, sir; I seen him in the spring. He was up along the side of his house and W. A. Ward was there doing something, but I do not know what he was doing.

Q - How long were you with him on that day?

A - I suppose about an hour. In the time there came up a

shower of rain and Velerie came out with his coat. I think I went to the house then with him, but I think I went on and did not stop with him.

Q - On that visit and during the time you stayed with him on that day, did you discover anything wrong with his mind?

A- No, sir; I never discovered anything wrong with Bass until the day Velerie was operated on. He seemed there to be very duncy that day, and I reckon that he talked a little foolish before my wife, but he had been talking to me and he said he ate dinner over at Ward's and they had nothing but beef, but they said that was at Dr. Gilmers, and he said "Oh! yes."

Q - Did you see him go to vote?

A - I seen him there; it seems to me that he came there in a buggy with Wit Barker?

Q - Then, during all the time about which I have asked you, you have never saw anything wrong that attracted your attention until the day that his wife was operated on?

A - No, sir.

Q - During all that time did you see anything out of him, or hear him say anything that would have caused you to have thought that he was not capable of attending to his own business?

A - No, sir. Well, at another time, a long time after that, he was bringing his cattle, I reckon, around to the Alf Slemple place, and he was leading his mare and was walking and I was cutting some briars off the grave yard and he said you are cleaning it off, are you? I said, yes, I could not get any help; he said it looks to me as though they ought to help you some and he passed on.

Q - That was in the spring?

A - Yes, sir.

Q - I want to ask you if you visited him at his house with any preachers or anybody at any time?

A - Yes, sir.

4-

Q - When was that?

A - In March, after he made his will. Barker, a man from Mendota, held a meeting there, and it was the Circuit Rider's time, and on Saturday, I believe, the Circuit Rider preached, and me and Barker and Hugh Hurt and Uncle Herndon went to Bass Slemph's place and Hugh Hurt had been in Washington 14 yrs. and we got our dinners at my house and went across the hill to his place, and when we got there, Bass was on the porch and we spoke to him: I said, Bass you do not know that fellow, do you? He said, yes, that is Hugh Hurt. Bass knew what we came for and called on Barker to pray and as soon as Barker had prayed Bass got the chairs and we all went to supper. At that time he talked very well -- I did not see anything wrong in his talk.

Q - Are you acquainted with one Will Coomer?

A - Yes; I reckon I seen him there often.

Q - Do you know the people of the neighborhood in which Coomer lives?

A - Yes, sir.

Q - Do you know the general reputation of Mr. Coomer in that neighborhood for his truthfulness and veracity?

A - I heard a number of they say he is an awful liar.

Q - Judging him from what his neighbors say about him, would you believe him on oath?

A - I do not know that I would.

Cross Examination

By Mr. Chalkley:

Q - How long have you known Coomer?

A - I reckon I knew him ever since he was a child.

Q - Do you honestly believe that he would tell a lie on oath in a case in which he had no interest whatever?

A - Well, sir; I always put it down one way: A man that will sell his vote will do anything, and that is his reputation.

Q - Then, your idea about Coomer's reputation is based on the fact that he is said to have sold his vote?

A - Well, that is what I based on, and what other people say. He never said anything about me that I know of.

Q - Who have you heard say that he will tell a lie?

A - I do not know that I can tell any particular man, but that is the general talk all the time.

Q - I believe you said that Joe Dixon swore a lie against him.

A - That is what I heard him say.

Q - Was or not the time that Joe Dixon referred to, when there was a divorce case between Joe Dixon and his wife in which Coomer's brother was the man claimed to have lead Joe's wife off?

A - That is what it was about, I think.

Q - I will ask you if Joe Dixon is not a man of pretty strong prejudices?

A - I do not know much about Joe Dixon. I think at times he is like most all of us, sort of half-cracked.

Q - Did you ever buy Coomer's vote?

A - No, sir. It had always been said it was not worth while fooling with Coomer, that he would vote Barker's way.

Q - That man Barker of whom you speak was a brother-in-law of S. S. Slomp?

A - Yes, sir.

Q - Mr. Ward, these various times that you have testified about seeing Mr. Slomp, covers, as I understand you, a period of about two years before he died?

A - I reckon it does. Of course, I have known him all my life. I lived off about three miles, and suppose of about three years I did not visit Bass very much. Slomp married a cousin of mine.

Q - Did you have any business transactions with him during any of this time?

A - No, sir.

Q - The time that you said you were going out surveying, or to where they were surveying, was about how long before he died?

A - My opinion is that it was just directly after he made his will.

Q - You, on that time, if I understand you, merely spoke to him and he told you to go on to the house, that he would be in, but you did not go in.

A - No, sir; I did not go in.

Q - And you merely spoke to him the time he came by and you were working in the grave yard?

A - Yes, sir; just a few words he spoke.

Q - At the time you said he came to your house; did you not know the horse that he was riding?

A - No, sir.

Q - What did he tell you he was taking medicine for?

A - He did not tell me. He said he could not drink liquor when he was taking medicine.

Q - You said you knew of him being on sprees prior to that time: had he been a pretty heavy drinker prior to that time?

A - No, sir; not especially that I know of.

Q - Did you all get tight pretty often in those times?

A - Not very often.

Q - How long had the man Hurt, you spoke of, been back from the West at the time he was at Mr. Slomp's?

A - I do not know exactly.

Q - You do not know whether or not Mr. Slomp had seen him or knew he was in the country?

A - I do not think he had.

Q - I asked if you knew?

A - I do not know that I did.

Q - What time a day was it that you all were over and had prayers?

A - It was along in the evening.

Q - About what time?

A - I suppose about an hour by sun.

Q - How many hours between the time you ate dinner and the time you had prayers?

A - It was a couple hours, I guess.

Q - How many of them intended to pray?

A - There was Mr. Barker, Mr. Hurt, Mr. Wilson and Uncle Ark and Ham, but as quick as Barker got done Bass took up the chairs and went to supper.

Q - So he stopped the praying after the first man got through and got them to go to supper?

A - He said let us go to supper.

Q - Did they or not tell him that they had just eaten?

A - That did not do a bit of good.

Q - Being preachers, they all ate?

A - Yes, sir; there were three preachers.

Q - I believe you say that there seemed to be something wrong with him that day?

A - Well, I think so.

Q - Mr. Ward, did you not know that it was the rumor of that neighborhood for some eighteen months or longer before Mr. Slomp died that there was something wrong with his mind?

A - Not that long; it was rumored a while, among some.

Q - Among whom was the rumor?

A - I do not know; it was just talked of; I heard Polk Barron talk, and I heard John Barker say that he waited too long to make his will.

Q - That was John Barker, his brother-in-law:

A - Y ar.

Q - Is it not fixed in your mind that there was such a rumor about the time that Marion Clarkston told you about fixing up his business?

A - No, sir; I do not think there was. There might have been some, but I did not hear it.

Q - Did you not think about anything of that sort when Marion told you that the next morning?

A - No, sir.

Q - Or about some of them thinking it was wrong?

A - I might have heard it, but I did not think so.

Q - Your idea about a man being wrong has got to do mostly with drinking liquor?

A - It has to do with what he does.

Q - I believe you stated that you are related to the Riddles, who are defendants in this case?

A - I reckon I am, my mother and Riddle's mother is said to be half-sisters.

Q - RE-DIRECT EXAMINATION

Q - On the occasion that you and the preachers were there, did they tell Bass that they all wanted to pray with him before he invited them to supper?

A - I do not think they did.

Q - Now, Mr. Ward, I want to ask you one further question; had you ever heard anyone say that Bass Slemp's mind was wrong prior to the time that Marion Clarkston told you he had made his will?

A - No, I do not think I had.

And further deponent sayeth not.

Signature waived.

The further taking of these depositions is adjourned to be resumed at the same place on September 1, 1908.

September 1, 1908; met pursuant to adjournment, at the same place.

Present, the same parties, as attorneys as was heretofore.

- DIRECT EXAMINATION -

By Mr. Irvine:

F. M. Clarkston, a witness of lawful age, being first duly sworn, deposes as follows:

Q - State your age, occupation and place of residence?

A - I am 51 yrs. old; occupation farmer; reside in Turkey Cove, Lee County, Virginia.

Q - State what official position, if any, you have held in Lee County?

A - I have been Justice of the Peace there for a number of years.

Q - Were you Justice of the Peace in November, 1905?

A - Yes, sir.

Q - Were you or not called on to atteste the will of S. S. Slemp and to take the acknowledgments to two deeds made by him on November, 21, 1905?

A - Yes, sir.

Q - Please state how you came to go to Mr. Slemp's on that occasion for that purpose?

A - My best impression is that one of the Coomers came to me. I was at Hop Slemp's at a corn shelling and they said to me that Bass wants you to come over there.

Q - Do you know which of the Coomer boys that was: Lee or Will?

A - I think it was Lee, but I would not be positive.

Q - When you got over to Bass Slemp's, who did you find there?

A - Well, when I got over there I found Mr. Harv Young there, that is all that was there; that is my recollection, when I first went.

Q - State as near as you can what passed between you and Mr. Slomp or between him and Mr. Young in your presence on that occasion, beginning at the start, after you got there?

A - Well, I went into the room and they were sitting there talking about general topics, and after I talked a while, Mr. Young says, "if we are going to do any business we had better be getting at it, as the days are short." Then Bass says I want to fix up my business, he says some of them claim that I could not do any business, that my mind is not right; he says, what do you think about it? Mr. Young answered and said, it appears to me that you have as much sense as any of them. I said, Bass, I understand you have been having some trouble with swimming in your head, I said, how is that swimming in your head - how about that? He said, I have not felt that since last Saturday, he said I was out there at the gate and I felt a little symptom of it then. Well, then he commenced talking about his business, one way or another; he asked how we thought we could fix it, perhaps. We told him that we thought that he had a perfect right to deed his real estate and will his personal property. He said he wanted to take care of his wife well, and that he wanted her to have plenty, that she helped make what they had. He said that he wanted Alf and Hop Slomp to have the Wess Slomp land, amounting to 180 acres, he said that it would make them 90 acres each. He wanted Alf to have the Charlie Flanary piece, and he wanted his wife to have 35 acres out of the home place. Then Mr. Young said, do you not want your wife to have the buildings? Bass said no, he said the best land is around the house here, he said I want her to have hers out of the average of the land. He said he wanted Dave Slomp to have 60 acres and wanted John Slomp, I believe, he called him "Squeezy", nick name, to have the 9-acre piece, called the "Bass piece", and the remainder of the home place, whatever that left. He said, Squeezy had not treated me

quite right, he did not think, but he said that is no reason why I should not treat him right, and the deeds were prepared that way, I think. Made two deeds, one to Alf and Hop for the Wesley Slomp land, joint deed, and made a joint deed for the home place, is my recollection, to his wife, Dave Slomp and John Slomp, including the nine-acre piece in that that he wanted Squeezy to have also. Mr. Young wrote the deeds.

Q - State whether or not in the course of this conversation he mentioned his sister, Mrs. Wampler, and if so, what was said?

A - He got to talking about his personal property; he said he wanted his wife to have all of that; he said he had thought all along of giving Melvina Wampler \$100.00, but since he had studied the matter over, that both were sick, neither were able to work, had to hire everything done, that he had done, and had heavy taxes to pay, and perhaps to have doctor bills to pay, he had decided he would not do it. My recollection is that he said he had about \$1500.00 in cash, checks and some notes. I do not know how much personal property he had.

Q - State whether or not during this talk he discussed how much land he had and described the different tracts, and if so, state what he said about that?

A - Yes, sir; he told us about the lands, he had and who he purchased it of, and talked about the corners and trees, some of them, and the number of acres in each piece.

Q - State whether or not he named all these things correctly as you understood it?

A - Objection by Mr. Bullitt

Objected to because leading.

A - Well, I should think he did, of course I am not acquainted with the corners, but from what other people says, he did state it correctly.

Objection by Mr. Bullitt

Answer objected to because hearsay and opinion of witness.

Q - State whether during this conversation he spoke of having loaned the Reasors some money, and if so, what he said about that?

A - Yes, sir; he remarked something about loaning some money to some of the Reasors down there for the purpose of building a church; I think it was perhaps two or three Reasors named in it; Dr. Reasor, I think, is perhaps one of the principal Reasors. I do not know just who all he said signed the note; I think he had a note for it.

Q - State whether or not the deeds and will were read over to Mr. Slomp before you signed them?

A - Well, sir; I think they were.

Q - Did you take his acknowledgments to the deeds?

A - Yes, sir; I did.

Q - Did you witness his will?

A - Yes, sir; I witnessed the will.

Q - State what was done with these papers after they were executed?

A - Well, after the papers were left upon the table there he came around and took a chair at the table; we signed up the acknowledgment to the deeds -- the names to the deeds, that is what you have reference to, I suppose. When he got through, he got up, I filled out the certificates and signed them up. I am not certain whether I wrote them or not, but I signed them. When I got through, I closed up the deeds. I was sort of in the manner, sitting like this (Explained to counsel) --- somewhere I could reach, perhaps, so I reached him the deeds when I signed them; I said, here Bass is your deeds. I said I would advise you, if you mean for these deeds to stand, for you to have them delivered to the parties they are made to, and he did not say anything, I do not think he said yes or no; he made no response whatever.

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Q - What then did he do with the papers, if anything?

A- He sit there with them in his hand a while, and then handed them to his wife; he said, here Velerie, take them. I will not be positive what he told her to do with them; my best impression is that he told her to put them away.

Q - Do you remember where she was at the time he gave them to her?

A - My best impression is she was --- the door over here on this side (Explained position, etc. to counsel); I was there and she was here. I am not certain whether Harv Young was sitting there when he delivered the deeds or not; it is my impression that he had to go outside the doors, but I am not positive, but the deeds were delivered either at the door or in the room; the room is not very large. I know he told her to take the deeds and do something with them.

Q - Is that the door that lead into the hall that separated this room from the hall?

A - Yes, sir; there was a little hall-way, the doors face each other, and it was near the door; I was on the other side of the room.

Q - Did you see these papers any more either on this occasion or at any subsequent occasion?

A - I never seen them any more then.

Q - Did you not see them, or any of them, a night or two before his death?

A - Yes, sir; I seen papers that they said was the deeds. I did not open the papers to look at them.

Q - State what was done with the papers that was told you to be the deeds, and the circumstances connected with that?

A - I went over to see Bass on Monday evening, is my recollection; I heard he was sick. I stayed all night on Monday evening and Tuesday night with him; he died on Tuesday night about, just after mid-night, and some time during the time I was

there Mrs. Slomp got these deeds and gave them, I think, to Dave Slomp, is my best recollection. She got the papers; she called them deeds; and they were talking to me something about them. She gave them to, I think, it was Dave Slomp -- it was some of the Slomps, anyway.

Q - Mr. Clarkston, how long had you known B. S. Slomp prior to the time you wrote his will?

A - Why, I was personally acquainted with Bass Slomp for 35 yrs. I would say.

Q - How close had you lived to him during the last few years in his life?

A - I lived within about one mile, I think, up to the time he died.

Q - State whether or not you were intimately acquainted with him?

A - Yes, sir; I suppose I was.

Q - State whether you saw him occasionally during the few months immediately preceding the time you witnessed his will?

A - My best impression is; that is, now at this time, that I seen him somewhere from the 5th to the 7th of November, at the election, before he made his deeds. That is, the November election, before he made these wills and deeds on the 21st day of November, I think it was, and if I seen him any more after that until I went over there that day, I do not remember it.

Q - State whether or not you knew him intimately?

A - Yes, sir.

Q - State whether or not at any time prior to the 21st day of November, 1905, you had noticed anything wrong with his mind?

A - No, sir; I did not. The first time I ever noticed anything being wrong with Bass Slomp's memory was sometime during the summer of 1906; he came along by my house one day and he had a fine mule colt, and I wanted to buy the colt, and in the conversation I asked him if he got wet, there had been a shower of rain, and he said no, I get in the shed. That is the

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first time I ever noticed that he could not remember.

Q - Please state, now, what was the condition of his mind on the day that you took the acknowledgments of these deeds and witnessed his will?

A - Well, to judge the man by his conversation and talk generally, on business matters, I am bound to state that I think his mind was all right, as far as I can say. If it was not, I could not detect it.

Q - State whether or not he seemed to know all of his property and to have a disposing memory?

Objection by Mr. Bullitt

Objected to because leading.

A - Well, he talked about a great many different things connected with his property, notes and dealings, etc. and about his cattle and what he had done, etc.

Q - Judging Mr. Slomp from your previous acquaintance with him, and from his mental and physical condition, as you found them on the 21st of November, 1905; state ^{whether} in your opinion he was capable on that day of making a valid disposition of his property?

A - Well, I thought he was. If I had not thought so I would have told him, I think, when he asked the question. After I interrogated him about his head and so on, I thought he was capable of transacting any kind of business. I never seen Bass then after that day until after I went over there just a day or two before his death -- No, I am wrong about that, I was ^{not} thinking when I made that statement; from the election to his death, that is what it was. It slipped my mind.

Q - State whether or not Mr. Slomp acknowledged this will before you and Mr. Young on that occasion as his will?

A - Yes, sir; he said it was his will. I heard nothing to the contrary on that day.

Q - Were you and Mr. Young present at the same time when he signed the will?

A - Yes, sir, we both watched him sign it.

Q - State whether or not you subscribed the will in his presence?

A - Yes, sir.

Q - Did you both sign it as attesting witnesses?

A - Yes, sir.

Q - During the day you were there, did anyone else come to the house, and if so, whom?

A - Yes, sir; there were Mr. Will Slomp and Dr. Edmonds came there, shortly after I got there; not very long, may be an hour or half-hour.

Q - State what passed between them and Mr. Slomp, if anything?

A - They came there to get permission to hunt birds on his place. My recollection is that he asked them to have dinner. They told him that they did not want anything, that they had been hunting on their place and came over there; and he gave them permission to hunt. He told them he was not afraid of them killing many of his birds, he said that he did not believe they could hit anything.

Q - State whether or not during the time you and Mr. Young were engaged in writing and witnessing these papers anyone else was present in the room?

A - Well, sir; my best impression is that when I went there that day that Mr. Young and Mr. Slomp and his wife were in the room, all sitting there together. She was present when he was doing a great deal of this talking, but I do not remember of hearing her speaking but once, but after everything was all over with, and the plans adopted, perhaps, she, I am pretty certain, passed out of the room, maybe went out a time or two before that, But during the time we were writing the deeds --- I studied a great deal over that, I cannot remember whether she was present or not; she might have been there and she might not, but I have no memory of her being there until

place.

Q - State whether or not any thing was said by Mr. Slomp of having privacy on that occasion?

A - Yes, sir; he wanted the doors closed, and he said he did not want people to know what he was doing in there. He said some of the Coomers were knocking about and he did not want them to know anything about it. He said they were mean to talk.

Q - State whether or not on any former occasion Mr. Slomp had ever discussed with you the subject of making his will or disposing of his property?

A - Yes, sir; he talked to me different times about it. The first time he ever talked to me about it was --- I would not be positive of the year, it must have been 1899 or 1900, it might have been before that or it might have been shortly after that. It was the first time that he ever talked to me about fixing up his business. On one occasion we were riding down the road between my place and his -- I might have been going to look at some cattle, and in the conversation something came up about John Barker, that Barker had made his brags that he was worth so much money and that when Bass died he would have some more. Bass said "Damn him", I will fix my business that he cannot ever get a cent of mine. He said can you write a deed or will; I told him I had done such things, and had a book of forms of wills and deeds, and he said I want you to bring that book and come down some of these days.

Q - Did you ever go?

A - I did not go then. Along about 1903 Dr. Gilmer came to me one morning at my place and told me that Bass wanted me to fix up his business and wanted me to come over, so I had never written any wills, but had a book of forms and Judge Skeen was down that day and I asked him about that

and Judge told me that it was all right after I told him about the forms, and I told him that Bass Slemp wanted me to fix up his business.

Q - Did you go on that occasion?

A - I went the next day or two; perhaps the next day. I think it was on the day the Odd Fellows were there and I could not do any business on that day on account of his company. I took the book over with me and expected to do business but there were too many around.

Q - Was there any other occasion in which he said anything to you about it?

A - Yes, sir; some time in the winter of 1904, I went over to pay him some money I owed him, and he was in the field and one of the Coomers was with him then working for him. I told him I was over to pay him, and he said I do not want it; he said I do not need it, and did not want it about him. He said I had a lot of money about me some time ago and I took that money and I bought the Wess Slemp land; bought it of Charlie Flanary and others. He said I have a note against Alfred Slemp for \$100.00 and he said I do not aim to collect that, and on that time he told me that he wanted to get his business straightened up, but he did not say when.

Q - Did he ever tell you on any of these occasions how he intended to provide for Dave and John?

A - No, sir; he never did tell me anything about what he aimed to do with them; not up to the day he fixed it up.

Q - Did he tell you how he intended to provide for his wife?

A - He always said he wanted to provide plentiful for her -- no, not until the day he made his will.

Q - How often did you see Mr. Slemp after the day he wrote his will up to the last few weeks of his life?

A - I could not state how often. He passed my place, which is ^{near} the Wesley Slemp place; I lived on the road, I saw him occasionally passing there often in the summer; not so often in

the winter. He was a very busy man; he was not a man to stop and talk much, he would always be in a hurry.

Q - Did he or not continue to transact business up to a few weeks or months before he died?

A- Objection by Mr. Bullitt

Objected to because leading.

A - As far as I know, he did.

Q - State whether or not on any of the occasions on which you saw him after he wrote his will and up to the time mentioned by you, during the summer of 1906, you noticed anything wrong with his mind?

A - Well, the next time I seen him after he made his will and deeds, he came to where I was at Floyd Riddles, and he was talking to me in regard to the deeds, he said he would like to deed each other rights through the land, and ^{that he} would like to have thought of it and had it put in the deeds.

Q - Well, state fully what passed between you and him on that occasion?

A - He asked me if I thought it could be done: I said I could not see any reason why, if the deeds were not delivered.

Q - What did he say?

A - He said Harv Young has gone to Richmond, I think he was elected to the Legislature, and he was gone to Richmond; he said Harv is not here. I said, Bass, as far as the deeds are concerned, you may get well, and live a long time, and he said, no, I cannot live very long, he said I have a kidney trouble, I will tell you, and bladder trouble bothering me, and the matter dropped right there; that is, as to the deeds, he said Harv was gone. He said he would like to have that put in the deeds -- deed each other right of way through the land. I think then I told him that if he did not do it, that they could do it themselves, or maybe I suggested it to him that way.

Q - Can you fix the time of this last talk?

A - When I was at Riddles; the day or month?

Q - Yes, sir.

A - It must have been right along about the first of December, 1905; it was not very long after the deeds were made; ten or fifteen days.

Q - State what to you seemed to be his mental condition on this last named occasion?

A - Well, he seemed to be all right, I thought.

Q - Do you recall when you next saw him?

A - No, sir; I cannot recall when I next seen him after that. I seen him occasionally. I never remember of talking with him on that subject any more after that.

Q - State what seemed to you to be his condition on up until you saw him in the summer of 1906, on the occasion hereinbefore mentioned by you, just after the shower of rain?

A - Well, sir, I would have to state that I never seen anything wrong out of the man up to the time I spoke of in the summer, about August or September; not that I could detect. I heard it reported, of course, that some said he was paralyzed; some would say one thing and some another, but I did not notice it myself.

Q - Do you know Will Coomer?

A - Will Coomer; yes, sir, I am acquainted with Will Coomer.

Q - Do you know the people of Turkey Cove among whom he lived for the past few years?

A - I have known them for the past seventeen years.

Q - Do you know his reputation among those people for truth and veracity?

A - Yes, sir; I think I do.

Q - Please state what it is.

A - Well, as to his reputation for truth in the neighborhood, it is bad. Everybody says that he will not tell the truth, and his father was the same way -- he is dead now -- could not believe

anything he told.

Objection by Mr. Bullitt

Statement about the dead man is objected to because irrelevant and incompetent.

Q - Judging Will Coomer by his reputation among the said people, could you or not give him full faith and credit on oath?

A- I could not myself; I do not think. I know he had lied to me on business matters. I know he has never told me the truth in my business transactions; I could not believe him unless I knew it was so.

Cross Examination

By Mr. Bullitt:

Q - Mr. Clarkston, you have stated that you did not notice any defect in Bass Blomp's mind until the summer of 1906; when you stated this you meant with reference to business matters; did you not?

A - I never did see anything wrong with it in regard to anything. I did not think, is my recollection, I told you, until some time in the summer of 1906.

Q - Did you not notice a change in May, as early as threshing time of 1905?

A - Well, I could not state whether or not I saw him about threshing time. The only thing that I ever noticed by just looking at the man, it seemed that one of his eyes was a little out of shape?

Q - You noticed that as early as the fall of 1905; did you not?

A - I do not know that I did.

Q - When was the first time that you noticed that?

A - I could not state the time; it must have been some time during the Spring of 1906; it might have been before that.

Q - Looked like one side of the face was to some extent paralyzed?

A - It looked a little disfigured.

Q - You do not know when you first noticed this?

A - I think it was some time during the spring of 1906. I do not think I noticed it on him at the time we made these deeds.

Q - Now, did you not notice a disposition on his part earlier than the summer of 1906, to commence talking on one subject and then to immediately go off talking on some other subject that had no connection with the first subject?

A - I do not think I ever noticed it at any time.

Q - You never noticed that at any time?

A - I do not think I ever noticed him being that way. The only thing I ever noticed was that he forgot where he sheltered that day; that was the summer of 1906.

Q - That was the only thing up to his last illness that indicated any defect in his mind?

A - Yes, sir; I noticed that he forgot where he sheltered. That was the first time that I have any recollection of.

Q - So far as you ever noticed then up until a few weeks before he died; you noticed no defect except on the occasion when you noticed that he could not remember where he sheltered; is that correct?

A - Yes, sir; I think that is correct Mr. Bullitt; that is the best I can remember. I will just state it as it was.

Q - Now, if I understand you, when you first went to Bass Slemp's residence on the day that the will was written, you found him and Harv Young and his wife in the room together; is that correct?

A - Yes, sir.

Q - About what time of day was that?

A - Well, I could not state positively; it was something near twelve, or perhaps a little past twelve. I think it was about twelve o'clock, or a little before.

Q - And then he talked with you and Harv Young for some little time about how he wanted his business fixed up; is that correct?

A - Yes, sir.

Q - And during that time his wife remained in the room; is that correct?

A - I think so.

Q - After the plans had been all arranged and you had determined what was to be done, she went out of the room and did not return until about the time that the papers were signed up; is that correct?

A - I think it is Mr. Bullitt; the best I can remember. If she was there, I cannot remember seeing her during the writing. I did not really pay any attention. I remember of her being there when we began and afterwards.

Q - And she returned to the room about the time that the papers were signed up and was either in the room or at the door when the papers were delivered to her?

A - Somewhere near there.

Q - What do you mean?

A - Somewhere near there; either in the doorway or in the room; I would not state positively.

Q - You mean in the room in which you all were or else in the doorway of that room; is that correct?

A - That is my recollection.

Q - You are certain that she was not in the opposite room across the hall?

A - When I saw her take the papers she was either in the doorway of our room or near there.

Q - And after you had advised Bass Slomp that if he wanted the deeds to stand he ought to deliver them to the party, he did not say anything?

A - I do not think he made any answer at all.

Q - And then he took the papers, that is the will and the two deeds, and gave them to his wife and said put them away; is that correct?

A - Yes, sir; he handed them to his wife and told her to put

them away, or words to that effect.

Q - Now, I will ask you if, when the question of delivering the deeds was discussed, if Bass Slemp did not say that he would keep the deeds because he might want to make some change in them, or words to that effect?

A - No, sir; he never said nothing to me. My recollection is, and I think I am positive about it; he did not say a word. He took the deeds, though. I do not think he said anything in regard to that at all.

Q - To refresh your recollection, I will ask you if you did not have a conversation with me at my office at Big Stone Gap a short time before this suit was brought?

A - Yes, sir; I had two, I think.

Q - Now, I will ask you if you did not tell me that Bass Slemp said he would keep the deeds because he might want to make some change in them?

A - I do not think I did, Mr. Bullitt. I have no recollection of it.

Q - His wife was in the habit of keeping all of his business papers; was she not?

A - I believe that she attended to his business.

Q - From what you have seen yourself, did you not believe that to be a fact?

Objection by Mr. Irvine

The foregoing question and any answer thereto are objected to as hearsay.

A - I think so. I think she done his bookkeeping and his corresponding; is my opinion.

Q - And kept all of his important papers?

A - I would not doubt but what she did.

Q - Now, he came to you at Floyd Riddles a short time after the deeds and wills were made and had a further talk with you on the subject, is that correct?

A - Yes, sir.

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Q - And he stated to you in substance that he would like to make a change in the deeds and you told him that he could do that if he still had the deeds in his possession; is that correct?

A - I told him that I did not see any reason why he could not.

Q - And you stated on direct examination that he stated that Harv Young was not there; I will ask you if he did not also state that he would not like to make a change in the deeds unless Harv Young was there?

A - I took it that way. I took it --- he did not exactly say that -- I took it as Harv was making the deeds that perhaps he wanted him to do the interlining.

Q - You understood then from what he said that he still had the deeds in his possession and under his control?

Objection by Mr. Irvine

Objected to because it is not the witness' understanding that constitutes the evidence as to what action took place.

A - It would be almost impossible for me to be of any opinion. I said you have the deeds in your possession, and he never said anything to indicate whether he had or did not have them; only saying that Harv is not here, he has gone to Richmond.

Q - And was not the impression made in your mind that he did have the deeds in his possession?

Objection by Mr. Irvine

Objected to as immaterial.

A - It was only a supposition on my part. I supposed that he had them; I had no way of knowing, of course.

Q - Now, you did not see the deeds any more until the night before Bass Sloop died; is that correct?

A - I think that is correct, sir.

Q - He died, I believe you stated, about mid-night on Tuesday of November 22nd; is that correct?

A - Just after mid-night.

Q - And these deeds were gotten by Mrs. Slomp there on that night, and delivered to Dave Slomp; is that correct?

A - She went and got a paper she said was the deed or deeds - I would not state positively whether it was one or two - and she wanted him to take charge of them. That is my remembrance, I think it was Dave Slomp that she gave the deeds to; I could not be positive as to that.

Q - Did she also get the will?

A - I think so.

Q - How did she happen to get the deeds and the will at that time?

A - I do not know exactly what brought it about. Her and some of them were talking about them.

Q - Did you have any talk with them about that matter?

A - Yes, sir.

Q - What did they ask you?

A - Something about the recording of them.

Q - State, as near as you can, what they asked you?

A - They all considered that Bass was either dead or knew that he was going to die right away and they wanted to know if they ought not to be recorded, and I said of course they should be put to record.

Q - Where did she get the deeds from?

A - I could not tell; we were in the "L" of the house; she came out of one of the front rooms and went in there and got them.

Q - Was that the room where she usually kept Bass Slomp's papers?

A - I suppose it was; my recollection is that we were in the east room doing this work, and my recollection is that she

put them in this room when Bass gave her these papers.

Q - She put them away originally in the room from which she got them on this occasion?

A - Yes, sir; that is the way I understand it.

Q - At that time Bass Slomp was considered either dead or dying?

A - He was unconscious at that time, but I do not know whether it was before or after his death.

Q - You do know that he was unconscious at the time?

A - He was either dead or unconscious. I considered that he was not conscious of anything.

Q - And he was not consulted about the getting of the deeds at that time?

A - I should ^{think} not, sir.

Q - He was not in condition at that time to be consulted; was he?

A - No, sir; I would not think so.

Q - Now, was it y ur understanding that she, at that time got both of the deeds, that had been made by Bass Slomp?

A - I do not know, sir; whether it was one or both, because I do not think I ever had the papers in my hands. I do not remember of looking through them at all to see.

Q - Nothing was said about either one of the deeds having been previously recorded; was there?

A - I think not, at that time.

Q - And nothing was said about either one of the deeds having been previously delivered to any one; was there?

A - I could not state positively. When he died or she died one, there was something said about one of the deeds not being there and John Slomp remarked and said, it is at my house, but I am not positive whether it was when he died or when she died. I am not positive now, I could not state at which time it was, which one of the deaths.

Q - When either he or she died?

A - Yes, sir; there was something said about the deeds and he said it is at my house.

Objection by Mr. Bullitt

The foregoing answers of the witness with reference to what John Slomp said about the matter of the deed being at his house is objected to as hearsay and incompetent.

Q - So far as you have any knowledge yourself, you do not know that either of the said deeds was ever at the house of John Slomp or ever out of the house of Bass Slomp until they were delivered at the time of Bass Slomp's death; do you?

A - No, sir; not of my own knowledge, I do not.

Q - Mr. Irvine asked you if Bass Slomp acknowledged the will as his will and you answered: "I heard nothing to the contrary": now I will ask you if he really did acknowledge the will as his will?

A - I think he only signed and we witnessed it. I do not remember of any acknowledgment being on it at all; that is, I mean, the certificate of acknowledgment like a deed; I think there was nothing like that on his will; I do not remember.

Q - You drew up all the papers, two deeds and the will, first before he signed any of them, did you not?

A - I could not state positively, but it looks very natural that he did.

Q - And then he signed them all, one after another, at the same time; did he not?

A - No, sir; I do not think he did. My opinion is that when he signed the will, my recollection is, that we watched him place his signature on it and then we watched each other put our signatures to it. We were awful careful about that. We were careful to see all of us sign it.

Q - You did not ask him if he acknowledged that to be his will? A - I do not remember. It strikes me that he signed the

will and we witnessed the certificate.

- But you do not remember of asking him if he acknowledged that as his will?

A - When we signed it as witnesses why, of course, he acknowledged it as his will.

Q - Now, I am asking you if he did acknowledge that as his will or whether he simply signed the paper and you all witnessed it; is that not the way it occurred?

A - I could not answer. I could not say whether he did or did not. My recollection is that on that form of will there is no acknowledgment taken, like a deed. Of course it will show for itself, the will will, which it was.

Q - You have stated that you had a talk several times with Bass Slempe about his will and that the first talk you had with him was in 1899, or 1900; did he at that time say anything about wanting the "Wess land" to go to his two brothers, Alf and Hop?

A - No, sir; I do not think he did. All he said was that he wanted to fix up his business before he died, etc. He never told me at that time anything about what he wanted to do with it, except that he did not want John Barker to have anything in his estate.

Q - You say that at the time you all went there to prepare his will that he said that they had been saying that he was not capable of attending to business, or words to that effect, and he asked you what you thought of it?

A - Yes, sir.

Q - At that time there had been a great deal of talk through the country about him having lost his mind; had there not?

A - I suppose there had been some talk, or he would not have made that remark.

Q - You, yourself, had heard the talk, had you not?

A - I could not state positively, Mr. Bullitt. As I said, some said that he was one thing and some another.

Q - Some said that he was paralyzed and some said his mind was gone?

A - They said that there was something the matter with his head; perhaps that is the reason I asked him the question about his head, I had heard that.

Q - What did he say about the swimming at his head?

A - I asked him about that swimming in his head; he said that does not bother me; I have not felt that since last Saturday, he said I was at the gate last Saturday and I felt it a little then, but since then I have not felt it.

Q - Now, I believe you stated that about the time the deeds were signed up and ready for delivery, Harv Young had to go out doors; is that correct?

A - It must have been about that time; I remember he claimed his kidneys were bothering him.

Q - You think then that he was not present then when Bass Sloop handed the deeds to his wife?

A - I could not state whether he was or was not.

Q - Now, with reference to Will Coomer: was not the main trouble that you noticed with him, that he did not keep his promises with reference to going to work and things of that kind?

A - That is one.

Q - You never knew him to tell a malicious lie on any one; did you?

A - I do not know that I ever heard of Will telling anything that would cause, perhaps, trouble between neighbors; that is, if they paid any attention to him. I do not know whether there was any one down there that would pay much attention to anything he tells, that knows Will.

Q - Did not Bass Slomp on the day that he made his will seem more or less heart-broken?

A - At one time he wept a little bit. He said that he wanted Alf and Hop to have that land over there and he had been talking to them about it and he aimed for them to say how they wanted him to divide it, and he said every time I name it to them they walk off; and then he broke down and cried. His feelings were hurt. And, he said, then when he recovered, that I will just have to fix it the best I can.

Q - Did you not tell Dan Reazor that Bass Slomp sent for you on one occasion to make his will prior to the time that you and Harv Young were there and that you went over there for that purpose and that Bass was not in a condition to do business?

Objection by Mr. Irvine

Objected to unless time and place are fixed.

A - I do not know what I told Dan Reazor. I might have told Dan Reazor that I went over there, the time Dr. Gilmer came after me, and that there was a lot of the Odd Fellows there that day and we could not do it that day without sending them away or something like that. He was then sick, that was in 1903. He had been sick then for some time. I do not know what the trouble was. Dr. Gilmer was doctoring him and he told him to have me come over there.

Q - Was he in position to do business on that day?

A - Dr. Gilmer said that he was not able.

Q - You say that was in 1903?

A - I guess it was. That was the time I went over when he sent for me. I think it was in the winter of 1903. That was the only time I went.

Q - Can you remember that all these things occurred?

A - I think I can, Mr. [illegible] may be a little mistaken. The reason I remember it so distinctly is the winter of 1904

I was at Imboden and I think it was the winter before I went to there that I stayed at home.

Redirect Examination

By Mr. Irvine:

Q - You have spoken on your cross examination of Mr. S. S. Slomp's illness in 1903; state whether or not he recovered from that illness?

A - Yes, sir; he got up from that illness. I think he had the fever -- that is my recollection, I am not certain.

Q - Can you or not state that this was not the same illness that he had of which he died?

H. L. Snodgrass recalled.

Since talking about it I remember attending the Circuit Court, September Term, 1923 about six days and the fodder was getting very ripe and we left court and went home and commenced cutting fodder but I don't remember the exact date. Me and my hands and wife attended court here and went home and commenced cutting fodder that evening. It was the last days of September but I don't know the exact date, September, 1923.

Dead, Dale
June 12
20
20

agreement of counsel.

Given under my hand this the 30th day of September,
1908.

James E. Mass
Notary Public, Wise County, Va.

Fee for taking and transcribing: 60 hrs. @ 75 ¢	\$45.00
Witnesses' charges:	
Dr. J. A. Gilmer, 1 day -----	.50
John Gilly, 12 miles, both ways, 48 ¢ -----	.98
W. S. Coldiron " " -----	.98
John J. Reasor " " -----	.98
J. B. F. Olinger " " -----	.98
F. M. Clarkston " " -----	.98
Harvie Young " " -----	.00
Total charges -----	\$51.38

Filed Sept. 6th, 1907.

J. C. P. Ewing, Clerk
By M. B. H. H. H. H. H.

NO. 1000
OCT. 10, 1907
A

The depositions of E. S. Stout, C. D. Bailey, W. A. Ward, Mrs. ^{Valere} Davis and F. M. Clarkston, taken before me, F. M. Clarkston, a Justice of the Peace in and for the County of Lee and the State of Virginia, at the residence of the late Sebastine S. Slemp on the 27th day of November, 1908, to be read as evidence on behalf of complainants in two certain causes in Chancery now pending in the Circuit Court of Lee County, Virginia, under the style of S. M. Wampler et al against John Slemp, et al, and Florence Coomer, et al, against Alf Slemp, et al; and also to be read as evidence in a certain action at law now pending in the Circuit Court of Lee County, wherein S. Melvina Wampler et al, are plaintiffs, and F. T. Riddle et al, are defendants.

Pursuant to agreement between counsel these depositions may be read in said last named cause subject to exceptions by either party for irrelevancy and incompetency, in case any of the witnesses who may give such depositions may not be present at the trial of said law cause, these depositions being taken pursuant to agreement and without notice.

It is further agreed between counsel that the depositions may be taken by Wm. B. Carnes in short hand and thereafter transcribed and forwarded by him to the Clerk of the Circuit Court of Lee County without the certificate of F. M. Clarkston the Justice who took the same, being attached thereto and the signatures of the parties are waived:

Present— Alfred Slemp & John Slemp, Defts. & H. T. Smith
their Counsel, & Jno. W. Chalkley of
Counsel for Complainants—

E. S. STOUT, a witness of lawful age, being first duly sworn, deposes and says:

DIRECT-EXAMINATION--J.W.CHALKLEY,Atty.

Q---Please state your residence and occupation?

A---I live in Lee County close to Dryden. I am a farmer.

Q---Were you or not, Assessor for the District in Lee County in which the late S. S. Slemp lived, for a few years before his death?

A---Yes sir.

Q---Did you or not, in the years 1905 and 1906, take his tax list?

A----I am not positive as to whether it was--1904-5 I think was the last I assessed him. I have nothing to show. I think it was 1904-5 the two last years I assessed him.

Q----Please state what appeared to be the condition of Mr. S.S.Slemp's mind the last year you assessed him?

A----Well, I don't know that I could state that question. The two last years I assessed him he did not seem to have the business qualities about him that he did the first four years I assessed him.

Q----What did you judge by in forming this opinion?

A----Well, when I would ask him something about his stock, to get the price of it, he would seem to want to talk about something else. Seems his mind was on something else.

Q----Do you mean or not, that his mind would wander off from the matters about which you were questioning him?

A----Well, I asked him what anything was worth and he would tell me, and he would then maybe commence talking of his farming, or something else. It would not seem that his mind was on his business at the present.

Q----Then, if I understand you, he seemed to be incapable of keeping his mind on his business, the business you were transacting with him?

A----I could not state that.

Q----Did he keep it on such business?

A----Not at the time I assessed him, he didn't all the time.

Q----What times of the year would you usually make your assessments/ in this locality?

A----Somewhere from the first to the twentyeith of May.

CROSS-EXAMINATION--R.T.Irvine,Atty.

Q----Did Mr. Slemp seem to know what property he had, including livestock and all other kinds of personal property in the last few years?

A----Yes, he told me what he had.

Q----Did he seem to understand fully what he had and the proper value to put on it for taxation?

A----Yes, I think he did.

Q----What struck you, as I understandit, was that he was a little more talkative about other matters than the business in hand?

A----Yes sir.

Q----Did you or not get the impression from what you talked with him at those times, that he was incapable of attending to his own business?

A----No sir, I ~~told~~ don't think hat what he could attend to his own business all right.

Q----He was considered a shrewd business man in this locality, was he not?

A----Except for that time that I spoke about he always seemed to be up with his business.

Q----Did you regard him as being ~~incapable~~ of disposing of his property, and having a sound and capable memory?

A----The last two years -- I could not state that--but he gave me a list all right.

Q----You would not thought from what you talked with him that he was a crazy man --

A----No sir.

Q----Would you have thought that he could not dispose of his property?

A----No sir; I thought he could dispose of his property all right. I just allowed he may-be had some other business on his mind the last two years I assessed him.

RE-DIRECT EXAMINATION--J.W.CHALKLEY,Atty.

Q----Do you remember what he gave in in the way of notes and money the last time you assessed him?

A----Well, he did not give in as much the last two years, if I mistake not, as he had been giving in.

And further deponent sayeth not

Signature waived

C. D. BAILEY, another witness of lawful age, being first duly sworn, deposes and says:

DIRECT EXAMINATION- J.W. CHALKLEY, Atty.

Q----Please state your age, residence and occupation?

A----53 years old; farmer; live near Olinger, Lee County, Virginia.

Q----Were you acquainted with the late S.S. Slemp during his lifetime?

A----Yes sir; very well acquainted with Mr. Slemp.

Q----Do you or not know Mr. Harvey Young, who lives near Dryden, in Lee County?

A----Yes sir, very well.

Q----Have you and Mr. Young, or not, been particular friends for the last several years?

A----I consider it so. We have been very intimate friends the way I viewed it.

Q----Did you or not, ever have any conversation with Mr. Young in which he made any statements to you about what occurred at the house of S.S. Slemp when he wrote his Will for him, and make any statement to you about the condition of Mr. Slemp's mind at that time.

(Mr. Irvine: Objected---)

I am asking you did you have such conversation?

A----Yes sir, I had a conversation with him in regard to that matter.

Q----I read to you from the deposition of Mr. Harvey Young taken in these cases at the office of Irvine & Morison on the 28th day of August, 1908, as follows--page 6--in answer to the following question from counsel:--"What condition of mind did you find Mr. S.S. Slemp in when you did go to write his Will?"--to which he made the following answer:--"I did not see any difference in the condition of his mind then".

And on page 9 of said deposition his counsel asked him the following question:--~~What~~ "State the condition of his mind during this discussion"? to which he made the following answer:-- "I saw no change in his mind whatever during the whole affair. I have drawn several Wills and he seemed to act in--well there was as lit-

"the excitement about his mind as any man I had ever drawn a will for".

And on page 10 of said deposition his counsel asked him the following question:--"Did his mind on that day seem to wander and did he become forgetful at times or not?" to which he made the following answer:--"No sir; I did not see anything at all. Very often in writing a will I would write one and have to make changes and get new paper, but we did not have to do this at any time."

I have asked you if in this conversation with Mr. Young, his statements to you about the transaction and about Mr. Slemp's condition, conformed to the answers which I have just read from the deposition?

~~XXXX~~ (This question and any answer thereto is objected to as improper and immaterial and is not the proper way to contradict a witness. Harvey Young was not asked about a conversation with Mr. Bailey while on the stand in this case and no proper ground was laid for contradiction or impeachment.--Mr. Irvine.)

A---I do not consider that his statement to me does conform with that.

Q---When and where did you have the conversation with him?

A---I could not exactly tell the time. It has been something over a year ago. I could not tell exactly the time. He came up after me to do some business in Dryden and I was traveling with him and I simply asked him what condition of mind Mr. Slemp's was, and he answered that he was fully at himself on business questions, but did not seem to be at himself on other questions. That was about the answer. He simply answered that he did not seem to be at himself otherwise.

Q---Then, if I understand you, when you had this conversation with Mr. Young he told you in substance that he thought Mr. Slemp was at himself and capable of making his will, but that with reference to other matters, on that same day and time, he ~~was~~ did not seem to be at himself and his mind was not in good condition?

A---That is exactly the statement he made. I asked him the question out of mere curiosity.

(foregoing question objected to as leading--Mr. Irvine)

CROSS-EXAMINATION--Mr. Irvine.

Q-----Can you recall in particular where this conversation occurred and who, if anybody, was present besides Mr. Young?

A-----I could not tell exactly the spot, but it was between a mile and a mile and a half of my house. There was no one present at the time.

Q-----Mr. Bailey, were you present at Olinger when S.S. Slomp paid his taxes in 1906, shortly before his death?

*----- (The Question objected to because not a proper subject for cross-examination - Chalkley)

A-----I came up--he had tickets in his hands. I came up soon after he had paid his taxes. He was examining his ticket and there was a little commotion when I walked up--

Q-----Was Chad Slomp in that?

A-----Yes, he was by.

Q-----Please state what was said by Chad?

(All questions and answers relative to this matter ^{are} objected to because immaterial and irrelevant and not referred to in direct examination--Mr. Chalkley)

A-----Mr. Slomp seemed to be bothered about some error and I noticed he looked very peculiar and seemed to want a correction made and Mr. Slomp--Chad Slomp--said, "just let them go. You have got your tickets and they are receipted", and that did not seem to satisfy in him and he went and told Mr. Ely--and I could not help but walk up and give him a few encouraging words, and I said, "Bass, you did exactly right", and he did not say anything until he went in to settle and I then commended him for doing the proper thing.

Q-----What did S.S. Slomp say to Chad?

A-----He said, "I don't want something for nothing", and "I have got to die", and he looked grave about something, and he just walked in. I did not see the first of this transaction about getting the tickets.

RE-DIRECT EXAMINATION--Mr. Chalkley.

Q-----When was this?

A-----It was about the first day of November, 1906. That, I think, was about the date. I am inclined to believe it was the first day.

-Regular tax-paying day.

Q----Was it the year Mr. Slemph died, or the year his will was made?

A----It was about the year he died, right about the first day of November.

Q----Did Mr. Slemph's mind seem entirely clear on that day.

A----I thought it was a little wrong--thought he had been drinking a little. I did not think he was really at himself. He was rather slow about his matters. He looked very red and that, I thought, a little redder than common and I just came to the conclusion he was a little out of his mind.

Q----Did you find out afterwards if he had been drinking?

A----No sir, I did not.

Q----The matter in hand about his taxes was a very simple matter, was it not?

A----I think so. It seemed to be that he was getting his tickets for too little money. Bass had not paid enough money, I think was the way I found it out. One little tract of land had not been settled for. He had not paid Mr. Ely enough money and he wanted to pay the full amount, although he had his tickets signed up.

Q----It was just a little error was it not?

A----I don't know how little it was. Just a few dollars--something like that.

RE-CROSS EXAMINATION--Mr. Irvine.

Q----The time you refer to was in November, 1906?

A----I said I thought that was it.

Q----It was just a few weeks before he died?

A----I probably got it wrong. I said it was about a year. It might have been; I am not positive.

RE-DIRECT EXAMINATION--Mr. Chalkley

Q----Is not your recollection very clear, that whatever year it might have been, it was the year before he died, and the year in which his will was written?

A----Yes sir. That was the way I got it. Of course, time passes. I said I thought it was 1906. It was a little over a year before he died.

Re-Re-Cross Examination-Mr. Irvine.

Q---You are not certain about this last named point?

A---I could not swear positively but I have got it very strongly that it was a year before he died.

Q---If several other witnesses were to testify in the case that it was not, you would believe their statement, before you would yours, would you not?

A---Yes; I have no great interest in it; possibly so. I have not attempted to fix dates.

And further deponent sayeth not.

(Mr. Chalkley: Mr. Irvine, there is one other question I want to ask the witness--Witness recalled)

Q---Mr. Bailey, do you recall who was present at the time this matter came up about the taxes?

A---I don't remember - there were several there--Mr. Crockett Jones was one. He had something to do about writing the check. I don't remember besides Mr. Ely. Crockett Jones seemed to be the man that explained everything to Mr. Sleep--took very much pains and he wrote a check and I just remember him.

Q---You said you thought it was on the first day of November?

A---I said about November. Along about there.

Q---You don't remember the exact date?

A---No, not exactly.

And further deponent sayeth not.

Signature waived

W. A. WARD, another witness of lawful age, being first duly sworn, deposes and says:

DIRECT EXAMINATION--Mr. Chalkley.

Q---Mr. Ward, you have heretofore given your deposition in this case, have you not?

A---Yes sir.

Q---I will ask you whether or not, since you gave your former deposition, you have recalled other conversations between you and the late S.S. Sleep, and other matters connected with him than those

-told by you in your former deposition?

A----Yes sir.

Q----I will ask you to please state any other conversations you had with him going to show the state of his mind during the last eighteen months of his life, which you did not formerly testify to?

A----I come here to fix some wood to thrash wheat--me and my son- and he went with us to show me where to get the wood, and we had nothing but an axe, and he said he would get a saw, and he came to the house and me and my boy cut the wood and we came to the house, and ~~upon~~ his wife said to me, "what do you want?" ---

(Anything his wife said is objected to--Mr. Irvine)

--and she said, "He has had me hunting all this time for a mowing scythe."

Q----was this statement of his wife, made in his presence?

A----Yes sir, he was leaning against the fence.

Q----What did he say?

A----Nothing--I just said we had enough wood to thrash the wheat, cut.

Q----When did this occur?

A----About wheat-thrashing-time.

Q----How long before he died, approximately?

A----I could not tell. The Fall before, I think.

Q----Do you not recall any other conversation?

A----Sometime after that I come here along about corn-cutting time and wanted him to go up to the field with me to ~~show~~ divide it. He got half the fodder--part of it was cut up and part was'nt. He started out with me and my boy. Just before we got to the field, he asked me who it was before us, and I said it was my boy and Alf's and he said "such as this scares me", and I said, "let us go back to the house;" and we went back.

Q----Alf Slomp, to whom you refer, is his brother Alfred Slomp, one of the defendants in this suit, is it not?

A----It is this man right here (pointing behind him in the door)

Q----It is his brother, is it not? I just want to get it in the record?

A----Yes sir.

Q----Do you recall any other conversation? If so, what?

A----Nothing, only what he said about this piece of ground right here in front of the house. I had this piece in corn.

Q----What did he say?

A----he said, "This peice of corn is the best piece of corn in the County. I always tend my corn good."

Q----had he tended it?

A----no sir, I tended it myself.

Q----This conversation, did it occur the year he died?

A----yes sir.

Q----Mr. Ward, do you or not, know one William Woomer who lives in this neighborhood?

A----yes sir, I know him.

Q----Are you or not acquainted with the people in his community?

A----yes sir, most of them, I reckon.

Q----how long have you and he both lived in the same community, that is this community near the S.S. Slomp residence?

A----I reckon ever since he was born. He was born right around here close.

Q----do you or not know his reputation in said community for truth and veracity; if so, what is it?

A----I don't know that I could tell you anything about that. I have had no dealings with him and that is a question I would hardly know now to answer.

Q----have you ever known his reputation for telling the truth being questioned before the institution of this suit, and before he gave his deposition therein?

A----no sire, I don't know that I do.

CROSS-EXAMINATION by Mr. Irvine.

Q----Has not Will Woomer been generally regarded in this neighborhood for ten or fifteen years, as being unreliable for truth telling?

A----I don't know as to that. ~~XXXXXXXXXXXX~~

Q----Don't know that his oath has been set aside!

A----no sir.

Q----Did you ever hear any discussion of that?

A----I don't know that I have.

Q----with regard to the corn field that you tended in front of the house; it was a fine field, was it not?

A----yes sir.

Q----the land belonged to him?

A----yes sir.

Q----you tended it on shares?

A----yes sir.

Q----where was the place that you were cutting wood?

A----up here back of this barn on this hill. (Pointing to the rear of the house)

Q----what season of the year--do you recollect?

A----no sir, it was just before wheat-thrashing time.

Q----there was a grass field between the house and the woods, was there not?

A----no sir.

Q----there was a grass field or grain field between, was there not?

A----there was a grass field on this hill. (Pointing to rear of house)

Q----do you know whether or not he was having some mowing done about that time?

A----no sire, I could not tell.

Q----his mind seemed to you to be a little wandering on those occasions did it not?

A----yes sir.

Q----you did not talk any particular business with him, except about the matters you have testified to?

A----no sir. he just went with us and we only had an axe and he went to get a saw and never came back and when we came he was standing against the fence.

Q----did he seem to be physically unwell that day?

A----seemed to be stupid.

Q----these occurrences occurred a short time before his death?

A----yes sir.

HE - DIRECT EXAMINATION--Mr. Chalkley.

Q----was the field Mr. Irvine asked you about, a pasture field or meadow?

A----it was a pasture field. He kept his hogs in it mostly.

And further deponent sayth not.

Signature waived.

MRS. VALERE DAVIS, another witness of lawful age, being first duly ~~sworn~~ sworn, deposes and says:

(Counsel for complainants states he had endeavored to talk to this witness before putting her on the stand, and that she declined to talk to him; that witness is ^{an} adverse witness and she is put on under the rules of cross-examination--Mr. Chalkley.)

(Counsel for defendants objects to the witness being so examined. He has never talked to the witness and knows nothing of her attitude to the case and knows no reason why she should be regarded as an adverse witness--Mr. Irvine)

DIRECT-EXAMINATION - Mr. Chalkley.

Q----Mrs. Davis, please state your age, residence and occupation?

A----Age 23, soon be 24.

Q----residence?

A----Turkey Cove

Q----occupation--(strike out that occupation-she is minding baby now-)
like all good women should be doing--Mr. Chalkley)

Q----were you acquainted with D.S. Slemp?

A----yes, I was born and raised along with him. He seemed like a father to me.

Q----you were raised in his family were you not?

A----yes.

Q----you were named for his wife?

A----yes.

Q----was she a relative of yours?

A----she was my second cousin.

Q----Did you or not, during the last 18 months of the life of the said

D.S. Slemp, see him do anything that indicated to you that his mind

was not entirely clear

A----sometimes I did.

Q----Please state any or these things you saw him do

A----when we left any water in the wash-pan he would go and drink it,
if we did not throw it out.

Q----would that be water that some one had washed in?

A----where we would wash our hands.

Q----how long before he died did he do things like this?

A----Something under a year, I guess. I don't know how long.

Q----Do you remember the day Squire Clarkston and Mr. Harvey Young
came here to write his will and fix up his business?

A----yes, I remember it.

Q----you were here?

A----yes, but was not about where they was.

Q----did he do things you have indicated along about that time?

A----it was after that time.

Q----About how long did you say?

A----I guess a month, maybe.

Q----Do you remember any other things he would do?

A----he would just call people's names wrong and forgetful. But he
would know them, but seem like he could not call their names.

Q----people he did know, he could not call their names?

A----yes sir.

Q----Do you remember an occurrence about his setting a lamp in the
grate or fire-place at one time?

A----No, I never saw it, but Aunt Leary--

(Mr. Chalkley--you need not tell anything you did not see your-
self)

A----I know that.

Q----You don't know anything about that occurrence yourself?

A----No sir.

Q----Do you remember any other queer actions he had at any time,
about anything?

A----No sir. He was just forgetful, just as I tell you.

Q----How long would these forgetful spells last?

A----Just two or three days--something like that. He seemed like, though, he knowed everything, only just forgetful.

Q----Around the house and at the table would he seem to forget, or not understand things at times that you would ask him about?

A----Sometimes he would ask for something that was not on the table, when he had those spells on him. He was not that way all the time.

Q----How long Mrs. Davis, before he died, was he unconscious or very sick?

A----I reckon, well, he would not lay in bed none hardly. He was taken, it was not that Fall, it was the next Fall after the will was taken--

Q----You mean he was sick from July until November when he died, after the Will was made?

A----Yes he was sick about 18 months.

Q----How long was he too sick to know about anything much before he died?

A----From Saturday until Thursday. He took his bed Saturday and did not pay much attention any more.

Q----You say he was sick about 18 months before he died?

A----Yes sir.

Q----How was he taken?

A----His head swimming and throwing up.

Q----Then, did he or not have these forgetful spells you spoke of, from the time he was first taken in July until he died?

A----Seemed like he did. He was sort of taken out of his head or something like that. But he got better.

Q----Did you all have to watch out for him and go around with him during these times, when he had these spells?

A----No sir.

Q----Do you remember whether or not your brother Lee Coomer generally went with him about on the place and over to his other place the last year or so before he died?

A----I don't remember it. He would go with him sometimes to bring his cattle in--to help, you know.

Q----Were you here during his last illness?

A----Yes sir. I was here all the time.

Q----From the Saturday until the Thursday when he died, did he or not seem to know anything?

A----He did not have much to say. Could not set up and did not want to talk.

Q----Was he not in some kind of stupor?

A----He just seemed to not have any life in him--did not want to talk any hardly.

Q----Do you or not remember whether Mr. Slomp had been pretty sick for some little time before the day he made his will?

A----He was taken in July and he made his Will that Fall.

Q----Do you remember whether or not Dr. Gilmore had been coming to see him pretty regularly just before he made his will?

A----Well, I don't know.

Q----Have you any independent recollection of what his condition was just about that time?

A----He had not called people's names wrong for two months before he made his will. He was better along then than he had been since he had been sick.

Q----Mrs ^{Donis} ~~Slomp~~, Mrs. S.S. Slomp, in her will bequeathed you a small legacy, did she not?

A----Yes sir.

Q----Have Mr. Alfred Slomp, Mr. John Slomp, or Mr. Hop Slomp talked to you any about your giving your evidence in this case?

A----No sir.

Q----Has anybody said anything to you about being careful what you testified to, or about not talking to ~~me~~ before you went on the stand?

A----No sir.

Q----Has anybody suggested to you that you might lose what you got under Mrs. Slomp's will in case we won this suit?

A----I have heard some say I would.

Q----Who have you heard say that?

A----I hard heard Frank Riddle.

Q----Anybody else?

A----Yes, let me see! Why, all the Riddles say if it is broke, I am out !

Q----

CROSS-EXAMINATION--Mr.Irvine.

Q----You have told Mr. Chalkley the truth about this, have you not?

A----Yes sir.

(Counsel for the plaintiffs says that he does not mean to imply that what Mrs. Davis has said is not the truth--Mr. Chalkley)

Q----You think that the fact that you had a little sum left you by Mrs. Slemp would influence your statements in any way--

A----Well, she had give me the money she aimed for me to have.

Q----How much was it?

A----Seventy-five dollars. It was given me in the will.

Q----Does that influence you in any way in the statements you have made to Mr. Chalkley?

A----No sir.

Q----You sai that Mr. Bass Slemp's mind was better about the time he made his Will?

A----Yes sir.

Q----How was he on the day he made the Will; in good state of mind or bad state?

A----~~How~~ I was not with him much, only when he was eating, and he seemed in good mind.

Q----Was he in good mind before that?

A----Yes sir, for two months or more he had knowed people's names and not called them wrong.

Q----Did you see anything done by him that day that indicated he was out of his mind?

A----No sir.

Q----Did you see him crying or anything--

A----No sir.

Q----Did you see him try to get some money changed for Will Coomer?

A----No sir.

Q----You was around the House?

A----Yes sir, it kept me busy doing the work.

Q----Did Mr. Slemp seem to understand about his business matters
along up until about the time he died?

A----Yes sir, until he took his bed.

Q----Did he seem to understand about his property some months up to the
time he made his will?

A----Yes sir.

Q----Did you every hear him talk about it?

A----At the supper table he said he had the will fixed just as he
wanted it and they could all kick all they wanted; that any one
who had worked as hard as he did had a right to make it the way
he wanted it.

Q----Had you heard him talk any time before he made the will how he
wanted to give the property?

A----No sir, just that---

Q----Had you ever heard him talk about wanting to give his brothers
some and his wife some?

A----No sir.

Q----I understand then, from what you have said to Mr. Chalkley, the
only trouble with Mr. Slemp was his forgetfulness of names?

A----that was all. He had sense and knowed everything and I was here
all the time and done the feedin' and when I would come in he asked
me all about the feedin'. I was here all the time and I am going
to swear the truth no matter who it is for or against.

Q----Mrs. Slemp was operated on about two months before Mr. Slemp died,
was she not?

A----Yes, I think she was.

Q----Did Mr. Alf Slemp ~~know~~ come here and stay all the time from the
time she was operated on until Mr. Slemp died?

A----He come and stayed, I forget whether he was here all the time or

not.

Q----Was he here pretty much all the time?

A----Pretty much.

Q----What room was he in?

A----He stayed in the back room behind the front sitting room. She was operated on in the frontroom across the Hall.

Q----Which room was Mr. Slomp sick in during the last month or two?

A----In that room (Pointing to the room back of the sitting room)

Q----Where did Alf Slomp stay then?

A----He stayed in there with him I think, of a night.

Q----Do you know about a little table that first set in this room, the sitting room, and was afterwards taken in his room?

A----Yes, I drug a table in there, me and Sally Barker.

Q----Who asked you to do it?

A----Alf Slomp

Q----When?

A----Of a night

Q----Was that during the time he stayed here?

A----Yes sir

Q----Did you take it in after night?

A----Yes sir

Q----Do you know what was in that little table?

A----The papers, I guess.

Q----Was that the papers about the will?

A----Yes sir, I guess so.

Q----Do you know why that table was moved in there?

A----I don't know. I reckon he thought the papers would get lost or something.

Q----How was Mr. Slomp's mind at the time Mrs. Slomp was operated on?

A----It seemed like, right along at the start it got a little bad, that is before the operating, talking about it frightened him a little bit, but after that it got all right.

Q----The day of the operation, how was his mind?

A----It was not very good that day.

Q----Did he not talk to Mrs. Slomp and the others present about the

operation in a sane and straightforward way?

A----That day?

Q----Yes?

A----He was not about the house much. He was bothered, skeered.

Q----Did he have a good mind on him?

A----Yes, he seemed all right. I had to give him his medicine and he would not let me forget it.

Q----Think he understood about matters all right on that day his wife was operated on?

A----Seemed like he did.

Q----

RE-DIRECT EXAMINATION-Mr. Chaikley.

Q----Did you talk to him about any business matters the day his wife was operated on?

A----I don't know

Q----You don't remember any particular business, do you, that you talked to him about on that day?

A----No sir. Seemed like he was just botnered and was---

Q----As a matter of fact on account of the trouble with his wife, was not that one of his worst days, the day she was operated on?

A----Yes sir.

Q----Mr. Irvine has asked you about the papers in the little table--Do you know anything of your own knowledge about what papers were in there?

A----Well, they always kept their papers in there.

Q----But you don't know what papers were in there?

A----No, I just had an idea--

Q----Did Mr. Alfred Slomp seem to be very anxious to look after that table and the papers that were in it?

A----Yes sir, he looked after it.

Q----Did you every see him get any papers out of it?

A----Seemed like, I don't know as I ever did.

Q----Who generally looked after the papers, Mr. Slomp or Mrs. Slomp?

A----Why, Mrs. Slomp generally did:

Q----How long was it after the will was made before Mr. Slomp took another bad spell?

A----It was a month or two. I could not tell just what day.

Q----That was what I meant--just approximately? A matter I failed to ask you on direct examination--Please state as nearly as you can recall, who was here during Mr. Slomp's last illness from the Saturday until the Thursday you spoke of?

A----I could not tell you who was here--so many running in and out.

Q----Give the names of these, as nearly as you can recollect, that stayed here most of the time during that last sickness?

A----Alf Slomp--several--I could not tell you--it has been so long.

Q----During this last sickness you have referred to from Saturday until Thursday, before he died, did you see anybody get any papers out of this little table?

A----No sir.

Q----Did you see anybody get any out after he died?

A----No sir, not that I know of.

Q----What is your best recollection about that?

A----Seemed to me, I was skeered ~~xxx~~ so the night that he died--Aunt Leary came in here and got something, seemed like she got some papers out of that table.

Q----You thought, did you ^{not} ~~know~~

A----No, I never thought--

Q----Wait just a minute--You thought ^{those were} ~~that was~~ papers connected with the Will and the deeds?

A----Yes, I thought it

Q----Did you hear your Aunt Valera, Mr. Alf Slomp or any of them talking about the papers that night that he died?

A----No sir.

Q----Do you know what was done with the papers that night, or the next day?

A----No sir, I don't

Q----You are living here now on the S.S. Slomp place are you not?

A----Yes sir.

re-cross examination--Mr. Irvine.

Q----Your husband pays rent don't he ?

A----Yes sir

Q----Did Mr. and Mrs. Slomp both know that the will and deeds were in the drawer of that table?

A----I suppose they did.

Q----Did Mrs. Slomp have charge of those papers during the last few months of his life?

A----Yes sir.

Q----was this done with the knowledge of Mr. Slomp?

(question--Mr. Chalkley)

A----I could not tell you.

Q----Did Mr. Slomp know that Mr. Alf Slomp brought the papers in?

A----I suppose he did.

(Question objected to because witness has not stated that Mr. Alf Slomp was looking after any papers, but merely that he had ^{her} bring the table into the bed-room--Mr. Chalkley)

RE RE DIRECT EXAMINATION--Mr. Chalkley

Q----You stated to Mr. Irvine that the night after the will was made, Mr. Slomp said he had made it to suit him. Do you remember who was here when he made that statement?

A----There was nobody here after Mr. Clarkston and Mr. Young nobody but my brother Lee and Aunt Valera.

Q----Did he say what he had done with his property?

A----No, just said he had fixed it as he wanted it.

Q----Did not name any names?

A----No sir.

Q----You did not know who he had given it to?

A----No sir. He just said that at the table.

And further deponent sayeth not

Signature waived.

(Mr. Chalkley-- Mr. Irvine, I want to ask Mr. Clarkston a few ques-

(-tions-want to recall him--There is no one here to swear him
but I reckon I can take his word)

r. M. CLARKSTON, another witness of lawful age, without being
sworn, deposes and says:

DIRECT EXAMINATION-Mr. Chalkley-on cross examination
of the former deposition given by Mr. Clarkston-

Q-----
you are the same. M. Clarkston ~~xxxx~~ who gave your deposition
in these cases at the office of Irvine & Morison at Big Stone Gap
sometime ago, are you not?

A-----Yes sir.

Q-----in that deposition in testifying what occurred the day the will
was made here and talking about Dr. Edmunds and will Slomp being
down here, did not Mr. S.S.Slomp say something about getting a
gun and going out after Dr. Edmunds, or something of that sort?

A-----I don't think so. I don't remember any such talk.

Q-----Did he not say he would get a gun and go out and shoot Edmunds?

A-----no sir, he came back in and said Edmunds was a mighty clever
fellow, was about all I heard him say about him.

Q-----I was informed by some one, but I cannot fix the person or the
place, that you told some one that S.S.Slomp said, as you thought
in fun, that he would get a gun and go out after them, or shoot
them, or something to that effect?

A-----no sir, that is the first I ever heard of it, is now.

And further deponent sayeth not.

Signature waived.

I certify that I took down the foregoing depositions in short hand
and transcribed same.

W. B. Blanes

S. M. Hambley, et al,
vs. { Depositions for
Complainants
Aford Slump, et al

Received by mail in
good condition and
filed Dec. 5th, 1908.

H. C. Ewing,
Clark.

The depositions of L. M. Wade, D. C. Jones and J. T. Shuler, taken before me, C. L. Taylor, a Notary Public, in and for the County of Wise and State of Virginia, at the law office of Bullitt & Chalkley, in the Town of Big Stone Gap, Wise County, Virginia, on the 28th day of January, 1909, to be read as evidence on behalf of the complainants in ^{two} certain suits in chancery depending in the Circuit Court of Lee County under the style of S. M. Hampler, et al, vs. Alfred Slemp, et al, and Florence Coomer, et al, vs. T. H. Slemp, et al, and also, to be read as evidence in a certain action at law, now pending in the said Court, wherein S. Melvina Hampler, et al, are plaintiffs, and F. T. Riddle, et al, are defendants; pursuant to an agreement between counsel these depositions may be read in said last named cause, subject to exceptions by either party for relevancy and competency, in case any of the witnesses who give such deposition may not be present at the trial of the said law cause.

These depositions are taken pursuant to agreement and without notice. Present, Jno. W. Chalkley, of Counsel for complainants, and R. T. Irvine, of counsel for defendants, and defendants, John Slemp, Alfred Slemp and Hop Slemp.

L. M. Wade, a witness of lawful age, being first duly sworn, deposes as follows:

Q. Please state your age, residence and occupation?

. Sixty years old. Farmer. Lee County.

Q. How far do you live from the residence of the late S. C. Slemp?

A. Well, it is about three miles I reckon, to go around, the way you have to ride around there.

Q. How long did you know the said S. C. Slemp before he died, and did you know him up until the time of his death?

A. Yes, sir, I knew him ever since I was big enough to take any notice to any of the boys. Run with him a great deal on up until ~~the~~ not far from the time he died.

I never visited him as I should have done right along at his last days.

Q. In the last eighteen months of his life, did you or not see anything in his demeanor, or conversation, that made any impression on you with reference to the strength or weakness of his mind, and if so, please give us your recollection of such acts or conversation?

A. Well, I don't remember how long it was before he died--the first time I ever noticed him being as I thought his mind not just right at times.

Q. Do you or not recall being at Olinger when the Treasurer was collecting taxes there in the Fall of 1905?

A. Well, I remember being there, but as to the date--I don't remember just what year it was--I can't fix that. I can't fix that date--paid not attention to it particular, I could not give that date at all.

Q. On the day that you remember of being there, please state what did occur?

A. Well--the first thing I took any notice to was he was there--people had collected there for the purpose of paying taxes. Think I had paid mine, and stepped out into the yard, where a number of others were, and Mr. Slomp he come out into the yard where we were all there talking, and said something about a wrong about ~~his~~ his tax ticket, some way or another--had paid too much, or hadn't paid enough--anyhow he said there was a wrong about it. I made mention to some of them myself that it ought to be fixed right while it was fresh, and that I would go back and have it fixed while the Treasurer was there; and I don't remember who it was--seems like one of these three boys here (meaning one of his three brothers, Alfred, Hop or John) went in with him, and seems like Charlie Bailey went back into the house with them too, and something was said about fixing it up,

and he come out directāy and said it was fixed. There was a difference--my understanding was a difference of \$35.00, but I understand since, it is different.

Q. Do you remember whether or not Mr. B. C. Jones was there?

A. Crockett, they call him?

Q. Yes, sir.

A. Yes, sir, I saw him there.

Q. What impression was made on your mind from Mr. Slomp's action and conversation as to his mental condition on that day?

This question objected to by Mr. Irvine as improper in form. The witness should narrate facts and not impressions.

A. Well, as I thought, there was something wrong with him. He did not seem like he always had before. Seemed to me that his mind was not just right some way. I didn't know, of course, I don't know what--he had told me once before that he had swimming in his head, but that is common with a heap of people, you know, swimming of the head.

Q. What about his action and conversation made you think there was something wrong with him?

A. Well, bythe way he talked. I don't know his actions or anything had anything to do with ~~h~~ it more than his talk. Seemed like he was a little flighty--talked a little flighty.

Q. You had known him for several years--was his talk and actions on this day similar to his talk and actions at other times some time prior to this when you were with him?

A. No, sir, seemed like that he didn't--He talked a little flighty some way or another. Would not talk like he always had heretofore; that is, at times. Sometimes he would talk all right--then again he wouldn't.

Q. Subsequent to the occasion to which you have just referred do you recall any other time when you were with him that the impression was made on your mind that something was wrong with him, mentally? If so, please state approximately when, and what gave you such impression?

A. Well, I don't believe I can call to memory right now, where and when. I had seen him several times along, and some times he would seem all right, and then again--in fact I never saw him much for the last year after he got to complaining, and he did not stir out as much as usual, you know, and I never saw him as often.

Q. Have you ever held any official position in Lee County?

A. Nothing except Deputy Sheriff. I was Deputy Sheriff for four years.

Q. Along about the time that you testified to about the tax paying, what was the rumor of your neighborhood among Mr. Slemp's friends and neighbors as to his mental condition?

Question objected to by Mr. Irvine as incompetent and irrelevant.

Cross Examination by Mr. Irvine.

Q. In what respect did Mr. Slemp seem unnatural to you, or in what manner did he indicate to you that he was different from his former self on the time when you saw him the last year of his life?

A. Well, in the way he talked--what little I saw him is what I figured it from. The run of his conversation.

Q. He seemed forgetful did he not?

A. Yes, sir.

Q. Had a hard time to remember names?

A. Seems like--At one time I remember talking with him, seemed

like he talked all right for a little bit on a subject, then he would forget and may be mention something else that would have nothing to do with what he was talkin about, and then go back to the subject. Seemed a little flighty.

Q. But he would get back to the first subject and go on and complete it would he?

A. Yes, sir.

Q. That was about all the change you noticed, wasn't it?

A. Yes, sir, I suppose that was about the sum and substance of it. All I noticed.

Q. Did you have any business transactions with him during the last year or two of his life?

A. No, sir, I did not.

Q. You can't say whether he was capable or incapable of attending to his ordinary business transactions, can you?

A. No, sir. I never had any business with him myself, and never was about where he and anybody else was transacting business.

Q. Were you at his house during the last two years of his life, or just see him going round about in the community?

A. Just round about there in the community. Don't know whether I was at his house inside of a year. He lived off of the main road, and I didn't transact any business with him--didn't make any call going around there. I ought to have seen him more when he was sick than I did, but at that time, I was a little puny myself, and did not stir about much.

Q. Did he ever ask you to make a trade for him for what is known in this record as the Charlie Flanary tract of land?

A. Well, I can't say that he ever asked me to make a trade, but he asked me once, one time, if I was going to Jonesville, and he asked me to see Charlie Flanary and ask him what was the least money he would take for that piece of land of his in the Cove--

said to feel of him and see what was the best he would do on it, and I went on, and I think, as well as I remember, that I saw Charlie the morning I got to Jonesville, but I never had no conversation with him. I expected to see him later. I reckon he went home-- I don't remember--anyhow I never got to see him on that trip and have any talk with him in regard to the land business.

Q. Did you report this to Mr. Slomp?

By Mr. Chalkley:

Q. About what year was this?

A. I couldn't tell you--don't remember. He later on purchased or bought it--it was before that time,--~~don't remember~~
~~how long before he died~~

Q. Do you remember how long it was before he died?

A. I don't know. Expect it was two years, year and a half or two years--right along there.

By Mr. Irvine.

Q. Did he afterwards buy the land himself from Mr. Flanary?

A. Yes, sir.

Q. Did he ever tell you what he wanted to buy the land for?

A. When he was asking me to see Charlie and find out the least money he would take for it, he said it laid over there next to Alf and Hop, and he said they had been mighty good to him along through his work in the meadows and wheat harvest, so on, and he said some day or other he expected he would give it to them, or let them have it, or something to that amount. He made that impression on my mind that he aimed for them to have it.

Q. Did he not tell you this on more occasions than one.

A. Don't know that he did. Don't remember that he did. He might have done it, but I don't remember him telling me that more than the one time.

By Mr. Chalkley:

Q. Do you remember how he acquired this Charlie Flanary land?

A. No, sir, I don't.

Q. That is, was it by deed from Flanary, or by sale?

A. Well, I think it was bid off--that he bid it off. It was sold, and I think he bid it off.

By Agreement of counsel the date of this deed may be obtained from the Clerk's Office or otherwise and inserted herein.

Q. Mr. Irvine has asked you about what facts made the impression upon your mind that something was wrong with Mr. Slomp in the last year or two before he died. I would like for you to say, whether or not, on any of these occasions, Mr. Slomp's mind seemed as strong and vigorous as it had prior to that time?

Objected to by Mr. Irvine because leading.

A. No. When I talked with him, it seemed that his mind was not hardly as strong, and he didn't talk like he used to talk; that is, with as good a mind as he used to.

Further this deponent sayeth not.

Signature waived by agreement of counsel.

Also the deposition of B. J. Jones, a witness of lawful age, who being first duly sworn, deposes as follows:

Direct examination by Mr. Chalkley.

Q.

Mr. Jones, please state your age, residence and occupation?

A.

Right about forty--will be in a few days. Residence, Olinger, Lee County. Farmer.

Q.

Did you know the late S. S. Slomp in his life time, and if so, state how long?

A.

I knowd him from the time I was a chunk of a boy up to the time of his death.

Q.

How far did you live from him?

A.

Well, through the field the near way--something like three quarters of a mile.

Q.

Do you recall a transaction with reference to his paying his taxes in the Fall of the year, 1905, or at any other time, and if so, please tell about it?

A.

Well, yes. I went to Olinger, I believe it was 1905--I have got the date--let me see so I will know what the date was. October 31st, 1905. I was down there to pay my taxes, and Bass come in to pay his taxes. He had a check--the impression was, with him of something like about \$300.00. He wanted to pay his tax out of that, and have Mr. Ely the Treasurer pay him the money on the balance of the check, and he handed it to him and he told him that he did not have that much money, and Bass, then he asked some two or three, Hen Reasor and Chap Slomp if they had the money,--and then he asked me, and I said I haven't got the money, but I will give you a check for the amount of your taxes. Well, I gave him a check for something like \$50.00,--in the last check \$54.88--I don't remember the exact amount of the first check. I gave him a check and it lacked something like four dollars--in the ticket Mr. Ely

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failed to count in a certain tract. He turned the check in to Mr. Ely and he found out some way that he hadn't paid enough, and he come back to me. Don't remember the words he spoke to me, but he wanted to know what to do about it. I told him to get the check back, and I would give him a check to cover the full amount, and he did so.

Q. You have just verified this date as October 31st, 1905, as I understand you verify this by reference to check stub, showing check given to E. S. Slomp that day?

A. Yes, sir, that is where I get it.

Q. What impression did Mr. Slomp's action and conversation at that time make on your mind as to his mental condition.

The question objected to by Mr. Irvine, because improper form--the witness should testify as to facts and not impressions.

A. Well, as to conversation--there was but very few words spoken--what I told you about him coming back about the wrong, etc. Outside of that I don't remember a word, but then he appeared to be something wrong with him to me.

Q. How did you come to that impression that there was something wrong with him?

A. Well I don't know that I can explain exactly how I come to that. Just from what he did talk. He seemed sick some way--some way or another he could not understand his check--some way or another--by me giving him a check and him paying his taxes--he could not understand how that worked some way. Seemed to be a little bit bothered about that.

Q. Did, or not, his actions outside of his conversation, make any impression on you?

A. Well, yes, just his appearance--I reckon had something to do with it--the impression he made on me.

Q. What was the rumor, if there was one in that neighborhood, among his friends and neighbors as to his mental condition at

at that time?

Objected to by Mr. Irvine as incompetent and immaterial.

A. Hear it mentioned very often that Bass had lost his mind, or something to that effect.

Q. Did you or not subsequent to that time have a conversation with him, or were you with him at any time shortly thereafter?

A. Well, I was, a few minutes.

Q. Where was that?

A. That was on his place where I was hauling shucks I bought of Johnn Coomer. Me and him were hauling, and he come up to where ^{we} were loading, and was there a short time.

Q. What judgment, if any, did you form at that time as to his mental condition?

Objected to by Mr. Irvine as immaterial, incompetent.

A. Well, just from appearance there was, just about that he was wrong. Just something similar to the appearance he had at Olinger a short time before.

Q. Give us as nearly as you can what his appearance and actions were, and what change there was in them from what they had formerly been, when there was no question about his being in his right mind?

A. Well, he seemed, his appearance to me, was that he was not right as he was before that, to say for some years before.

Q. What did he do on the day you were there hauling shucks?

A. Well, he didn't do much of anything. I don't remember-- I don't know as I could recall "arry" word he spoke. Said something to Coomer about setting up a little fodder. He may have talked some more, but I don't remember the words. Wasn't very much talk.

Q. About how long was this, as nearly as you can recollect after the tax paying day you referred to?

A. Well, I couldn't call the time--seems to me like two or three weeks. Sometime after though. The reason that I know it was after tax-paying day, I had helped Coomer shuck corn one day, and he paid me back the money that I gave him check for to pay his tax.

Cross Examination by Mr. Irvine.

Q. And you think it was two or three weeks after tax paying day that the money was paid back to you?

A. No, I said I thought it was two or three weeks that I come to where I was hauling shucks, and that shucking corn was between these two days somewhere.

Q. The time of two or three weeks is only your best impression at this time?

A. Yes, sir I don't state the time exact.

Q. May it not have been as much as four or five weeks?

A. I don't know--that is just the impression. It might have been some two or three weeks, or it might have been four weeks.

Q. Can you remember anything particular that was said on this last occasion by Mr. Slemp?

A. Nothing only about a little bit of fodder setting up. Said something to Coomer about fodder. I don't know what words exactly.

Q. How long did he stay around where you were?

A. Well, I can't state--it was not a great while. Might have been ten minutes, or twenty, or may be not that long, or might have been longer.

Q. You and he did not discuss any business at that time did you?

A. No, sir, not at all.

Q. Did you ever discuss any business matter with him after tax paying day?

A. No, sir.

Q. How often do you think you saw him after that time, before he died?

A. Well, I couldn't state how often I saw him. I don't remember seeing him to stop and talk with him where he was not more than four or five times. I saw him pass along several times -- near the road and spoke to him

Q. He went about in the community the same after that time as before?

A. Why, I seen him passing at different times--passing the road.

Q. The two occasions referred to are the only two times you noticed anything out of the way, is that correct?

A. I passed him one other time,--over right between the house and barn, I believe it was?

Q. What happened on that occasion?

A. Well, I stopped there a short time.--Don't remember much about that time.

Q. Did anything seem the matter with Mr. Slomp's mind, except memory seemed slippery?

A. Well, as I answered the question awhile ago, from his appearance and what I heard him talk, his mind was slippery, or something wrong some way.

Q. There were two or three different parties sorter pulling at him about the tax ticket at Olinger that day, wasn't there?

A. I don't know.

Q. Did you hear any conversation between him and Chap Slomp?

A. I can't say whether I did or not.

Q. I ask you if you did not hear Chad Slomp advise him to

go on and not straighten up the matter, and let the Treasurer lose the difference of four or five dollars, and did not Chad, also, in substance, say to him "You've got your ticket and that is all you want."?

A. Well, I can't say whether I heard Chad say that or not. I have heard that talked by other parties since. I can't say that I heard Chad say that, or that I did not.

Q. And, didn't you hear S. S. Slomp say in substance that he himself was an honest man and wanted to pay his just debts?

A. Well I am of the impression that he said he had not been doing that way, and he wanted to fix that up when he come back to me for the second check, and wanted to know what to do about it. Said he wanted to fix it, and I told him to get the check back and I would give him a new check covering the full amount. Don't know just what words he spoke, but that was the meaning of it.

Q. What he meant then, or the substance of what he said to you was that he was not going to cheat Mr. Ely out of that difference?

A. Well, yes, I think so. That is what he did anyway. I gave him another check and he paid the amount left out in the first check.

Q. Whose handwriting are the checks in that you gave on that occasion?

A. Chad Slomp's.

Q. Were you not all sitting theretogether then, you and Chad and Bass?

A. Well, me and Chad was in Hon Reasor's store when the check was written. I don't know just where Bass was, might have been sitting out of doors--don't know where he was at when we were writing check.

Re-direct Examination by Mr. Chalkley.

Q. How did he pay you back the check?

A. Mrs. Slomp paid me--paid me the money.

Q. That was his wife?

A. Yes, his wife, Velerie Slomp.

Q. Where were you when she paid you?

A. Helping Coomer shuck corn on his place.

Q. Was ~~Bas~~ he by?

A. No.

Q. Did he say anything to you that day about paying you back the money?

A. I don't remember if I saw Bass that day. She come up there where we were working and called me out and paid me the money.

Q. Did she know the proper amount to pay you?

A. Yes, sir, I believe she did. She might possibly have asked me how much it was, but then she had money enough to pay.

Further this deponent sayeth not.

Signature waived by agreement of counsel.

Also the deposition of J. T. ^{Shuler}~~Cramer~~, a witness of lawful age, who being first duly sworn, deposes and says:

Direct Examination By Mr. Chalkley.

Q. Please state your age, residence and occupation?

A. I am forty four years old. Farmer. My post office is Rout No. 1, Olinger, Va.

Q. You live in Turkey Cove Valley?

A. Yes, sir. It may be Yokum Station District, the line is right close.

Q. Did you or not know S. S. Slomp in his life time, and if so, for how long?

A. I have known him some several years--something like twenty five years. I have been in the neighborhood there in five to seven miles of where I live for something like twenty five years and over. I would say twenty five. Over that I guess.

Q. Do you recall having a conversation with him some time before he died, and if so, about how long was it before he died as nearly as you can recollect?

A. Seemed to have been there--the best that I remember in the fall of the year. I had come over there with Dr. Gilmer one evening coming home.

Q. Do you recall whether or not that was the year before he died?

A. Well, it was in the Fall. It was the year before he died, it seems to me. He died in the Fall, didn't he. It was in the Fall. This was wheat sowing time that I was there.

Q. Was it, or not, the year that Dr. Gilmer moved away from the Cove?

A. Well, yes, I believe it was.

Q. Please state what the conversation was that you had with him?

A. Very little talk--it was growing late, and I said to Mr. Slomp--I asked him who was plowing out in the field, and he seemed not to answer me directly, and I stopped a moment--seemed like he was a man that would stop in his conversation at times, -- on the side I thought he was just stopping--seemed like he thought-- I asked him the second time who that was plowing. He said I know who it is, but I can't think of his name, and his wife says it is "Shim Ward. I knew it was Shim Ward, but I thought I would ask him to see who he would say it was.

Q. What caused you to ask him that?

A. Well, the Doctor had been talking to me about his sickness, was why I thought I would talk with him and see what he would say about the matter, how his question or answer would come in. There had been something said about his general health--been talked. I was because of what the Doctor had been saying ~~xx~~ to me along the way as we went over.

Q. Was there anything else that occurred?

A. Well there was nothing more that I know of. I soon passed on for home.

Q. This conversation was at his house, was it?

A. Yes, sir.

Q. How far was Mr. Ward from the house?

A. Well, it was in the field adjoining--close to his house. I suppose he come out right close to the house. I couldn't tell you how far.

Q. Was he or not plowing on Mr. Slomp's land?

A. Yes, sir, it was the field adjoining his house--that his house sets in probably.

Q. Do you know whether or not Mr. Ward was farming his land, or a part of it that year?

A. He was sowing wheat on Mr. Slomp's land that year.

Cross-examination by Mr. R. T. Irvine.

Q. Did you see him much during the last year of his life Mr. Shuler?

A. No, sir. I here was there but twice during the last year of his life.

Q. When was the next time you were there, after this one that you have spoken about?

A. It was on Sunday, and that date of the year that was, I could not be accurate in the time, but it was may be three or four months later on.

Q. How did you find him on that occasion?

A. Well, I spoke to him--seemed like there was some several there,--not several, I would say four or five probably, and he seemed to talk. Seemed that the impression was he was better then than he was the day I was there before. I thought may be he was better. I did not talk very much to him that day, and I was not there very long. That is all the time that I remember of being there,--just twice.

Q. The only thing that you found the trouble on the first occasion was his memory--did not seem to be able to call names, wasn't it?

A. Well, it would seem that he didn't know this man's name when I asked him--seemed that way.

Q. You had no further conversation with him?

A. No, it was quite late--don't remember anything more. Just very few words that I said to him. Just passed by--that's about all I remember mentioned.

Q. Which Gilmer was that the old Doctor or young?

A. It was the old Doctor.

Q. Where was Mr. Slomp at the time you rode up?

A. When I went to his house the first time--he was in the porch on the East side of the house. Porch on the East side. I had been out to the Doctor's and was going back to my place West. I just passed by and stopped in a few minutes.

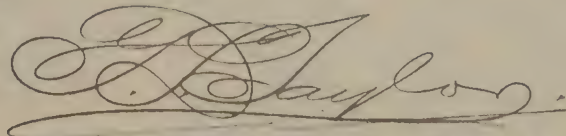
Further this deponent sayeth not.

Signature waived by agreement of counsel.

State of Virginia, County of Wise, to-wit:

I, G. L. Taylor, a Notary Public in and for the County and State aforesaid, do hereby certify that the foregoing depositions of L. M. Wade, B. C. Jones and J. T. Shuler, were duly taken by me for the purposes and at the time and place mentioned in the caption; that said depositions were taken down by me in shorthand and afterwards written out on typewriter, and were sworn to when taken and signatures of the witnesses waived by agreement of counsel.

Given under my hand this 29th day of January, 1909.



Notary Public, Wise County, Virginia.

My charges are 6 hrs. @ 75¢ \$4.50

S. M. Wampler et al

{ Depositions
vs { for Complaint

Alfred Hemp, et al

Received by mail in
good condition and filed
January 30, 1909.

H. C. T. Ewing.

Clark.

and H.C. J. Reason
THE DEPOSITIONS of Rial Lawson, taken before me, G. L.

Taylor, a Notary Public in and for the County of Wise, State of Virginia, ^{on November 28, 1908} pursuant to agreement, at the Office of Bullitt & Chalkley, in the Town of Big Stone Gap, Virginia, to be read as evidence in two certain cases in Chancery pending in the Circuit Court of Lee County, Virginia, in one of which cases Florence Comer and others are complainants, and Alfred Slemp and T. H. Slemp are defendants, and in the other of which cases S. M. Wampler and others are complainants, and John Slemp and David Slemp and others are defendants; it being further agreed between counsel for the parties that this deposition may be read by either party, subject to exceptions for relevancy and competency in a certain law action pending in the Circuit Court of Lee County, wherein S. Melvina Wampler and others are plaintiffs and F. T. Riddle and others are defendants, in case said witness may not be present at the trial of the said last mentioned case.

Present: Jno. W. Chalkley, Attorney for Complainants,
and R. T. Irvine, Attorney for defendants.

Rial Lawson, a witness of lawful age, being first duly sworn, deposes as follows:

Q. Please state your age, residence and occupation?

A. I am sixty one years old. My occupation--well that is pretty hard to say--I work some at farming and doctor some--have no license though don't suppose you would call me a physician. Farmer, I suppose that would be the nighest it that I would know what to say.

Q. Residence:

A. Benhur, Va.

Q. Did you know the late Sebastian S. Slomp in his life time?

A. Yes, sir.

Q. How long did you know him?

A. About eleven or twelve years,--ten or eleven--let's see about eleven year I reckon, nigh as I could state.

Q. Did you or not, have any business transaction with him sometime prior to his death?

A. Yes, sir.

Q. Please state when and where this was?

A. Well--Mr. Hamilton and me--me and Mr. Hamilton was partners, and he bought a heifer of him, and then I went over and paid for her--

Q. When was this?

A. That was three years ago, right along about white frost-- "sweet-tater digging time"; I guess in October, or maybe the first of November, right along there somewher's nigh as I could tell.

Q. Please state what the transaction was you had with him?

A. Hamilton said that he had bought a heifer of him, and that he was to have her weighed at the Tannery Scales; but as they come one they wanted to weigh her at the Gilley Scales. They did weigh her at Gilley's Scales, and when they come on had her re-weighed at the Tannery Scales; there was some difference in the weights at the Tannery Scales and Gilley Scales. After that I went ~~xxxxxxSlomp~~ ^{Slomp} to pay for the heifer.

Q. Where did you go to pay for the heifer?

A. I went to Slomp's. I went in and saw him. I seen that he was not at himself, as he was usually, and I waited until some one came in--until a witness come in before I would pay him.

So much of the foregoing answers as purports to say what the parties said is objected to as hearsay. By Mr. Irvine.

Q. What appeared to you to be the condition of Mr. Slomp's mind on this occasion?

A. He did not seem to me to be capable of business at all.

Q. From what did you draw that conclusion?

A. Well, from his maneuvers and his talk.

Q. Please give the character of his maneuvers and his talk?

A. Well, he would sit like he was going to have a conversation--then he would get up and go over the room back and forth acting "quare"; going first one place and then another--then sit down and commence talking again--he would talk about his sickness--

Q. Did he or not seem to be able to keep his mind on the business in hand?

A. No, sir, he did not.

Q. Please state fully the whole transaction with him there that day and what occurred?

A. When I went there to pay him, I thought it best from his talk and maneuvers not to pay him until someone come in and and see me pay him. I waited until this man come in--Coomer, I believe--I believe it was Lee Coomer. Soon as he come in I mentioned ~~about~~ about paying for the heifer and went on ~~for~~ and paid him for the heifer. He asked me to have some dinner with them--they had eat dinner, but he said they were preparing dinner for me. I stayed until after I got my dinner after I come in. I went in and eat my dinner, and after we come out I was sitting talking with him and he called on me for the balance of the money. He says aint you going to pay the balance now? Why, I said, I paid you all that is due you--my recollection was \$17.50; I went

on to enumerate the kind of money, as I recollect, one ten dollar bill, one five dollar bill and one two dollar bill and a fifty cent piece; I knew at the time what kind of money it was; and he called his wife to bring the money in there if she hadn't put it with the other money, and she said she hadn't, --it was to itslef. She brought it in and it was all there. I said to him then,--sack of salt maybe you was thinking about. He said yes, that was it,--"I know'd there was something else about it" . I promised to give him a sack of salt to satisfy him about the difference in the weights, provided he took some other salt--three more sacks of salt I believe.

Cross-Examination by Mr. Irvine.

Q. Was Mr. Slomp complaining on that day of a swimming of the head?

A. No, sir. I don't recollect in what way he complained; but he was complaining of not being well, and I had heard before that that he was very unwell, and he was complaining of not being well.

Q. Do you remember how he complained?

A. Well, sir, I don't know that I do. Don't know that I do.

Q. You talked around with him about different matters didn't you?

A. I talked to him mostly about what I went there for. He seemed to be dissatisfied with the trade, and for that reason I promised to give him a sack of slat to try to get him quieted. Told him that I would give him a sack of salt--he wanted four and I told him that if he would trade with me for three, I would

give him one.

Q. The heifer weighed more on the Tannery Scales than on the Gilley scales?

A. No, sir, it weighed more on the Gilly scales than on the tannery.

Q. But he had put it in the contract that she was to be weighed on the Tannery Scales?

A. Yes, sir; that was what Mr. Hamilton told me--I had nothing to do with the buying offer.

Q. What he was troubled about was the difference in the weights between the two scales?

A. Seemed to be worrying about that--complaining of not being well--talking to me some about his stock.

Q. He was not along when the heifer was weighed at either place was he?

A. I suppose not--I know he was not at the Tannery.

Q. He just had your report?

A. He had got his report before I went there from the parties at Gilly's.

Q. But not from the Tannery?

A. Don't know whether he had or not.

Q. Did you discuss any of his other business matters with him?

A. Well, you see I could not recollect--never thought about that conversation--nothing more said about it, and I don't recollect.

Q. The only trouble that he seemed to have was forgetfulness, wasn't it?

A. Well, I took him to be pretty nigh like and insane man--

me and his brother talked about it afterwards--

Q. You hadn't seen him for some time before that had you?

A. I hadn't seen him for something like--well it had been three months I guess. I had only stayed about three months at Cadet down here. I seen him frequently while I was at Olinger. I had a little store and he traded with me frequently at Olinger.

Q. After you had gone in from dinner he asked you about settling the balance?

A. Yes, sir.

Q. As a matter of fact there was a balance due; that is, the sack of salt?

A. Yes, sir, sack of salt. He claimed that I had not paid him his money until his wife went and brought the money in. I know'd then the kind of money I paid him, and I described the money to him before she brought it in. I paid it in the presence of Lee Coomer to the best of my recollection.

Q. He was satisfied then after you showed him the money the second time?

A. Yes, he was satisfied with that transaction--seemed to be perfectly satisfied.

Q. You and he counted up together how much the heifer would come to at so much a pound for so many pounds?

A. No, sir; I just brought the money over there--what was due him. I am not good in figures--don't think we counted it up there. Just took him the money according to the calculation of Hamilton.

Q. He calculated it himself and checked up the figures did he not?

A. No, sir, Didn't make any calculation after I went at all.

Q. How long were you there?

A. I went there--they had eat dinner when I went, and I don't suppose I was there more than an hour and a half--might have been two hours. Mr. Slomp was a good friend of mine and would have me stay for dinner.

Q. Did he not talk rationally about all other subjects?

A. No, sir, I don't think he talked right about anything.

Q. What did he talk about most on other subjects?

A. Well, I don't know as I could tell you. First one thing and then ~~another~~ another--talked about cattle selling--talked some about selling another beef to us--I can't recollect just what.

Further this deponent sayeth not.

Signature waived.

Further taking of these depositions is adjourned to Monday morning, November 30th, 1908, at the same time and place.

Notary Public.

Met pursuant to adjournment at the office of Bullitt & Chalkley, in the Town of Big Stone Gap, Wise, County, Virginia, November 30th, 1908.

Present, Jno. W. Chalkley of counsel for complainants, and R. T. Irvine, of counsel for defendants.

Also the deposition of H. C. T. Reasor, a witness of lawful age, who being first duly sworn, deposes as follows:

Q. Please state your age, residence and occupation?

A. I live in Turkey Cove, Lee County. Farmer; forty six year old.

Q. Are you acquainted with Will Coomer, of Turkey Cove, Lee County, Virginia, who formerly worked with the late Sebastian S. Slomp before his death?

A. Yes, sir.

Q. How long have you known the said Coomer?

A. Well, I couldn't state that. He was raised up in that neighborhood--know'd him ever since he has been a boy.

Q. Have you and he each lived in the neighborhood ever since he has been a boy?

A. Yes, sir, right in the same neighborhood.

Q. Are you acquainted with the people generally in the neighborhood in which he lives?

A. Yes, sir, I think I know about everybody.

Q. What is the reputation of the said Will Coomer in the said neighborhood among the said people for truth and veracity?

A. Well, I think he stands fairly well--I don't know anything at all against him. I wouldn't know anything at all against him that I couldn't give him full credit. I would have to give his evidence full weight as far as that concerned it.

Q. Would you or not give his evidence full weight and credence on oath in a matter in which he apparently had no interest?

A. I think so, yes, sir.

Q. Have you or not ever heard his reputation for truth and veracity questioned in the said neighborhood before the institution of this suit.

A. No, sir, I never have until this.

Cross-examination by Mr. Irvine.

Q. Have you ever heard any discussion about Will Coomer, one way or the other by the people? prior to the institution of this suit so far as his truth goes?

A. No, sir. Well--I never heard his name mentioned at all before and-- I never heard anything said about his character. All I ever heard said about Coomer, I have heard them say he would probably--couldn't pay for things he would buy from them; get a little something at store fifty cents or such a matter-- maybe bushel of corn, of somebody, maybe something of that kind he wouldn't pay for. That all ever I heard said against him.

Q. Isn't his reputation down there Mr. Reasor, that he is very unreliable all round, for everything?

A. Well, I think nothing only just what I told you I heard people say he would get something of them, and promise to pay for it, and not do it. Maybe little store debt fifty cents or a dollar, about all ever I heard against him.

Q. Every year he sold his vote pretty regularly?

A. If he did, I never heard anything about it. I never tried to buy it--probably sold it, I couldn't say.

Q. You never did hear his truth and veracity either for or against him then?

A. No, sir.

Further this deponent sayeth not.

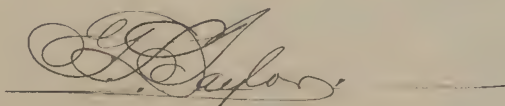
Signature waived by agreement of Counsel.

State of Virginia :
County of Wise : To-wit:

I, G. L. Taylor, a Notary Public in and for the County and State aforesaid do hereby certify that the foregoing depositions of Rial Lawson and H. C. T. Reasor were duly taken before me in my said County, at the time and place and for the purposes mentioned in the caption hereto, and were written out by me, and signatures of the witnesses waived by agreement of counsel.

Given under my hand this 3rd day of December, 1908.

My Commission expires on the 4th day of January, 1911.



Notary Public, Wise Co., Va.

My Charges are 4 hrs. @ 75¢ \$3.00

J. M. Thompson, et al.

vs. Depositions for

Alfred Plimp, et al.

J. L. Taylor

H. P. Thayer, et al.

Received by mail in
good condition and filed
Dec. 7, 1908.

H. C. P. Ewing,

Clerk.

Circuit Court of Lee County, Virginia.

S. M. Wampler, et al.

vs.

Alfred Slemp, et al.

Notice to take Depositions:

To Alfred Slemp, T. H. Slemp, John Slemp, David Slemp, Susan Barker and John B. Barker, her husband, Cora Patterson, Flora C. Courn, John J. Reese, Ate Reese, Arthur Reese, F. T. Riddle, Jane C. Riddle, J. B. F. Riddle, and J. W. B. Riddle, Mallissa Howard, Wilson Howard, and Crit Carter:

Take Notice:

That on the 29th day of January, 1909, at the Office of Dr. J. S. Chenoweth, on Fourth and Broadway, Louisville, Kentucky, between the hours of nine o'clock a. m. and six o'clock p. m., of that day we shall proceed to take the depositions of Drs. J. S. Chenoweth, John Moreh, Curran Pope, A. P. Vance and others, to be read as evidence in our behalf in a certain suit in equity depending in the Circuit Court of Lee County, Virginia, wherein we are complainants and you are defendants; and if from any cause the taking of the said depositions be not commenced, or if commenced be not completed on the said day, the taking thereof will be adjourned from time to time and from place to place and between the same hours until the same shall be finally completed.

Given under our hands this 19th day of January, 1909.

*Legal notice of this notice
is accepted for Alfred, T. H.
John & David Slemp, also
for F. T. Riddle Jane C. Riddle
J. B. F. Riddle J. W. B.
Riddle Mallissa Howard
Wilson Howard and
Crit Carter. This the
25th day of January 1909.*

*Travis & Morrison
Hunsan & Lovell
J. C. Hall*

S. M. Wampler,
Florence Coomer and T. D. Coomer,
J. F. Slemp,
Eurie L. Brummitt and John W. Brummitt,
Margaret Cox and W. S. Cox,
Martha Barker and J. G. Barker,
L. J. Slemp,
R. E. L. Slemp,
Rebecca N. Reese, Alpha N. Reese,
Lou M. Reese and Alice Reese Hall,
By S. M. Wampler, their next friend,

By *Bullitt & Chalkley*
Attorneys.

[Faint, illegible handwriting]

The depositions of James S. Chenoweth and John J. Woren, taken on the 29th day of January, 1909, before me, Clarence E. Walker, a notary public within and for the County of Jefferson, State of Kentucky, pursuant to a notice hereto annexed, at the office of James S. Chenoweth, Third and Broadway, Louisville, Kentucky, to be read as evidence in two certain cases in Chancery now pending in the circuit court of Lee County, Virginia in one of which Florence Coomer and others are complainants and Alfred Slemp, T. H. Slemp and others are defendants, and in the other of which S. M. Wampler and others are complainants and John Slemp, David Slemp and others are defendants, it being further agreed between counsel for the parties that any or all of the depositions that may be taken in either of the said cases may be read by either party subject to exception for relevancy and competency in a certain lot of cases pending in said circuit court of Lee County wherein S. Malvina Wampler and others are complainants and F. T. Riddle and others are defendants in case any of the witnesses who may give any such depositions may not be present at the trial of said last named case.

Present: C. T. Duncan, attorney for the defendant.

John W. Chalkley for the complainant.

JAMES S. CHENOWETH, being by me first duly cautioned and sworn to tell the truth, the whole truth and nothing but the truth, and being examined by Mr Chalkley, deposed and said:

1 Q Please state your name, age, residence and occupation ?

A James S. Chenoweth; age forty-one- residence, Louisville; occupation, physician and surgeon.

2 Q State what medical education you have had ?

A I graduated at the University of Louisville and studied in the New York Polyclinic at the Bellevue Hospital and abroad.

3 Q State the extent of your practice, that is, the length of your practice, hospital and elsewhere ?

A I graduated in 1889.

4 Q What hospital practice have you had ?

A Eight years in the dispensary work in connection with the college and in connection with the city hospitals and different infirmaries.

5 Q Have you or not had occasion to study and become acquainted with brain diseases and with the disease commonly known as softening of the brain ?

A As a general practitioner. I have never made a specialty of diseases of the brain, but I have come in contact with a good many of those cases in the course of my general practice.

6 Q What diseases are ordinarily known to the lay mind as softening of the brain ?

A That is a right hard question. I take it that general

paresis and cases of thrombosis, a blocking up of the vessels of the brain which results in softening processes, are possibly included in that general term. Any degenerating brain lesion is spoken of by laymen as softening of the brain.

7 Q Please state, rather fully, what your experience with such cases has been, that is, in a general way, the amount of practice you have had in such cases, that is, cases involving deterioration of the brain ?

A I do not know whether I understand the question exactly. Do you mean the number of cases I have seen, or the results of those cases ?

8 Q My idea is the number of cases you have seen or have had experience with or about ?

A I could not give you any definite idea as to that. I see them every little while but I could not estimate the number of the cases. As I say, I have seen them simply as a general practitioner and not as a specialist. I have seen a good many in the course of twenty years.

9 Q Please state what are the physical effects which the disease commonly known as softening of the brain has on the human person ?

A The effects may be either physical or mental, defects in physical and mental functions.

10 Q I ask you particularly here with reference to physical functions ?

A The disturbance or invasion of various parts of the body,

muscular weakness, paralysis oftentimes, lack of coordination of the different muscles.

// Q What are the mental effects which such disease produces ?

Judge Duncan: Objected to because irrelevant and immaterial.

A Weakening of the mental faculties, depending somewhat on what portion of the brain is chiefly involved. Sometimes effasia, loss of speech, loss of the higher brain functions, irritability, lack of coherence of ideas and speech, restlessness.

/2 Q What effect does it produce on the memory ?

A The memory is apt to be or may be weakened and very considerably. It is apt to be if there is much brain involvement.

/3 Q What effect does it have on the patient with reference to his feelings or what effect may it have on the patient with reference to his feelings towards those who are near to him in kin or blood or affinity ?

Judge Duncan: The question and the answer thereto are objected to because irrelevant to any issue involved in this case, immaterial, and because there is no proof in the case upon which such a question can be based .

14 A I would say if the brain involvement was at all extensive, it might have most any effect. You could not say any particular effect it might have, but the brain functions being interfered with might be disturbed in almost any direction.

Usually they are more or less irritable and childish, you may say, and can be easily influenced either for or against a particular individual.

15 Q What effect does it have on a patient with reference to his ability to recognize friends or recall names of people well known to him ?

A That would depend entirely on the extent of the involvement. Conditions of that sort, interfering with the functions of the brain, might disturb it in various ways. If the brain tissue were much involved, they might or might not recognize individuals. They might recognize them at one time and not at another.

16 Q Assuming that a person is forgetful and is unable to recall names of persons and things and recent events in and about his home and neighborhood and about his friends, what indications does that give as to the progress of the disease if the patient is suffering from the disease ?

A I should think that was an indication of considerable brain involvement.

17 Q To which class of events does the brain or mental power or faculty of man retain the longer, those that are impressed upon him by repetition or constant association or those that are nearly incidental to his every day life ?

A I should think it would depend somewhat on the portions of the brain involved, but as a general rule, things that have been most impressed when the brain was in a normal and physi-

ological condition would be most apt to be remembered.

18 Q Do I understand you to mean that the impression that remains on people's mind the longer is the impression that has been more indelibly impressed thereon before the effect of the disease is noticable ?

Judge Duncan: Question is objected to because there is nothing in the testimony in this case upon which such question can be based .

A I should think so.

19 Q I have asked you about what is commonly known as softening of the brain. Do you know just what is meant to the lay mind by the use of the term softening of the brain ?

A I think the term as commonly used in a loose way means a degenerated condition of the brain but whether that is general paresis, degeneration of the brain cells or due to degeneration of the blood vessels causing acute softening in the area supplied by the vessels is not a very great difference to the individual affected probably.

20 Q Do I understand that to the lay mind means paresis or cerebral softening or senile dementia or other specific troubles which medical men differentiate ?

A Yes, sir, I think so, just as they use Bright's Disease to cover a half a dozen different conditions of the kidneys which do not make much difference to the patient however.

21 Q Assuming that the patient is flighty in his talk, he switches about or jumps about from one subject to another or

first talks sensibly --

A What is the age of this man ?

22 Q Sixty-one or sixty-two.

Judge Duncan: I think sixty-four.

Mr Chalkley: Well, say the patient is between sixty-and sixty-four. Now read the question as far as we have gone.

The question was read and counsel continued the question, making the whole question as follows:

23 Q Assuming that a patient is flighty in his talk, he switches about or jumps about from one subject to another or first talks sensibly and then talks irrationally or about subjects having no connection with the subject upon which he is addressed: what indication would that give to your mind as to the patient's trouble, assuming that he is between sixty and sixty-five years of age ?

A It would lead to at least a suspicion of organic brain trouble.

24 Q Assuming that he loses the sense of direction or location and loses himself on ground with which he has been familiar for a lifetime: what indication would that be ?

Judge Duncan: That is objected to because it is immaterial and irrelevant.

A That would, just as these other conditions, tend to confirm the idea that he had some serious brain lesion.

25 Q In such cases how far would it indicate to your mind that the disease had progressed ?

Judge Duncan: This question is objected to because there is no sufficient foundation laid for asking the question or for an answer to it.

A It is dependent on brain lesion. The suspicion is it would indicate considerable involvement of the brain before so large an interference with the mental processes would be brought about.

26 Q Is that or not one of the ordinary symptoms of the trouble ?

A Yes, sir, it is frequently observed.

27 Q What is the usual course of said disease, that is, how long, as a rule, does it run after the person is first attacked, and it becomes noticable ?

A That is variable. It might run its course in a very few days from apoplexy or some accident of that sort, or it may persist for a matter of several years. It is usually rather progressive although not continuously or rapidly so.

28 Q In an average man of the age suggested, that is, between sixty and sixty-five years of age, what would be your idea, if age has anything to do with it, would be the ordinary course of the disease ?

A There is no regular course for a thing of that sort. You might have symptoms for a good many years and it might be shorter.

29 Q After the patient has had one or more severe attacks, or rather one or more severe indications of the disease,

is it usual for it after that time to ever become better, that is, the general condition ever become better, or does it, as a rule, continue to grow upon the patient ?

Judge Duncan: This question is objected to because it is immaterial under every phase of the evidence which has been adduced .

A The generative conditions in the brain rarely show much tendency towards improvement. There may be some improvement or sensation in the way of the mental system, but the disease is usually progressive.

3 Q What effect does the disease have upon the patient's capacity to transact business ?

A That depends entirely upon the extent of the disease. After marked mental symptoms have developed such as you indicate in your previous question, it would likely affect him materially, depending entirely upon the extent of the progress it had reached.

3 Q I now ask you this hypothetical question, based upon the evidence, or a part of the evidence in this case:

Assume it to be a fact that S. S. Slomp died in the latter part of November, 1906, from softening of the brain or what is commonly known as softening of the brain; that as long as two years or at least eighteen months before his death, he was one or more times affected with dizziness or swimming of the head; that in July and August 1905 he had a fainting spell near his home and had to be carried to his home in an

unconscious condition and was thereafter confined to his home for several days; that in a few days he got up and was able to be out and about his place and to walk or ride about the neighborhood, sometimes with an attendant, but that from this time on to November 21, 1905, he frequently exhibited loss of memory, of names, of persons, and of other things which were very familiar to him and frequently talked flighty, that is, he would start to talk on one subject and then change off to another having no connection with the first, or would sometimes talk sensibly for a while and then commence to talk more or less irrational and at other times during this period between July and November 21st, he would seem to be himself a while and talk sensibly to his friends and neighbors; that about the last of October or the first of November, 1905, a man who owed him some money went to his house to pay it and did pay him and then ate dinner, and just after dinner Mr. Slomp called on him to pay the balance of the money he owed him, having forgotten that the whole of the money had been paid before dinner; that along about the 31st of October he was present where he and a number of his friends were paying their taxes and a matter arose about the payment of his taxes he did not thoroughly understand, or seemed to be unable to comprehend and he made the impression on his friends that something was wrong with him mentally; that in the early part of November, 1905, he grew worse and on November 4th and 8th when visited by his physician, Dr. J. A. Gilmer, he complained

of dizziness and head swimming and showed loss of memory in forgetting the names of persons he would talk about, that he would call them by the wrong names; that by the 16th of November he had improved considerably; that on the morning of the 21st of November he sent for William Coomer, a man who worked on his farm, and told him (Coomer) that he wanted him (Coomer) to go over and tell Squire Clarkston, a neighbor he had known for years and who lived about a mile southeast of Slemp's farm, to come over to his house; that Coomer then told Slemp that he would like to have one dollar on account and Slemp thereupon handed him a five dollar bill and Coomer told him that it was five dollars instead of one dollar; that Slemp replied that he knew what he was doing, that he knew it was a one dollar bill; that Coomer called Slemp's wife and she came and she saw the bill and assured Slemp that it was a five dollar bill and Slemp insisted that it was a one dollar bill and said they were trying to make out that he had no sense, or words to that effect; that Mrs. Slemp told Coomer to take the five dollars and she would charge it to his account; that Coomer did so and went over to Clarkston's and asked him to come over to Slemp's; that when he came back to Slemp's, Slemp asked him (Coomer) if he had gotten the men off the railroad; that the railroad was north of Slemp's house and Clarkston lived to the south of the house and further from the railroad than Slemp's house; that Clarkston and another neighbor, Harvey Young, for whom Slemp

had possibly sent, came to the house about noon and having been previously told that Slemp wanted them to draw up his will, commenced talking with him on the subject; that he said to them that some people were saying that he was not in his right mind and he asked them their opinion on the subject; that he at that time appeared to Clarkston and Young entirely rational; that they told him that they thought he was all right and they after talking to him and learning how he wished to dispose of his property, prepared two deeds conveying all of his real estate to his four brothers and his wife and a will devising his personal property to his wife, leaving nothing whatever to two of his sisters, one of whom had helped to rear him at the death of his mother and of whom he seemed to be quite fond, which deeds and will were on that afternoon signed by him, Slemp; notwithstanding the fact that Slemp appeared entirely rational to Clarkston and Young, yet, a doctor, Dr Edwards, happened to come about noon for the purpose of asking permission to hunt quail on Slemp's farm; that he only saw Slemp for a few minutes and he was impressed by something that Slemp did or said that something was wrong with him, so much so, that the doctor remarked to his friend on leaving, "I wonder if he is fit to do business with -" or something to that effect; that about a month after his will was made, his condition was such that he would drink water out of a wash-pan after someone had washed therein; and his family had to throw it out of the pan to prevent him from so doing;

that early in December Slomp grew worse, gradually getting worse and worse physically and mentally until some days before his death he was in a comatose state and scarcely knew anything and finally died of softening of the brain on or about November 21, 1906, just a year after he made his will. Now, assuming that the above facts are true, please give your opinion on the following questions:

1. What was the mental condition of said Slomp on November 21, 1906 ?

Judge Duncan: Before going further the question is objected to because it is not a full and complete statement of all the facts in evidence showing or tending to show the condition of Slomp on the 21st day of November, 1906. secondly, it is immaterial and irrelevant.

A I have said that the indications were that he was suffering from a very diseased condition of the brain which made it quite probable that his mental functions were far from normal, otherwise he was not at all in the condition mentally to transact business.

32 Q Would you or not say that he was then of sound mind ?

A I would say he was not.

Judge Duncan: The objection I have just made goes to this question and also all that is asked him under this head.

Mr. Chalkley: These are all asked under that head.

33 Q What would you say as to his memory ?

A On that day ?

34 Q Yes ?

A I would say his memory was bad. He failed to remember the location of his neighbors ? That is the only thing in that question that applied to that point of his memory on that day.

35 Q And not knowing people he would meet ?

A I said on that day.

36 Q Was he on that day capable of making a will or transacting important business, this is on the assumption of the truth of these facts I have stated ?

Judge Duncan: That is objected to for the same reason.

A I would say the probabilities are that he was not in condition. A man who is the subject of a chronic degenerative condition of the brain previously to that and showing evidence of progression of that trouble so shortly after that date would preclude any possibility of his being in any normal condition at that time.

37 Q From the statement of facts detailed to you, what is your opinion as to what his mental condition was in September or October or November, 1906 and was he then capable of transacting important business, that is, just before his death, the three months prior to his death, he having died in November, 1906 ?

A I should think certainly the conditions in his brain were more aggravated at that time and would naturally affect

his mental faculties and they were still more obtunded.

38 Q Assuming the facts recited to you to be true except that one of the witnesses to his will whom I have told you about thought he was in good mental condition and would say or does say that so far as making his will was concerned he seemed all right, but that on every other question about which they talked that day he seemed all wrong mentally, would this modify or change your opinion about his mental condition on the 21st day of November, 1905 ?

Judge Duncan: This question is objected to because there is nothing in the record or in the testimony that has been taken to support it.

Mr. Chalkley: Counsel for complainants avows that before the cases are submitted the record will properly show that Harvey Young, the man who drew the deeds and will and who is a witness thereto, made the statement just put into the question above as a statement of fact with reference to Slemp's condition on that day.

A That would simply go further to indicate that he was not in a sound mental condition.

39 Q That is, if I understand you, it would go further to show --

A It would increase the presumption that he was not in a sound mental condition.

40 Q That is, it would increase the presumption that he was not in a sound enough mental condition to make a will or to be of disposing memory ?

A I do not know just what legal qualifications are necessary to make a will but I should say that it would indicate that he was not entirely in a sound condition mentally and my own opinion is that it would indicate a condition of mind which would not enable him to make a proper, reasonable disposition such as he would if he were in a proper normal condition.

41 Q Now leaving out of the above recited facts about Coomer and the five dollar bill and about the conversation between Slemp and Coomer after Coomer's return to Slemp's house and assuming that those did not occur, state whether the non-occurrence of these matters would change the opinion you have above expressed and to what extent if so ?

A No, sir; that would not change my opinion.

42 Q Does the fact, if it be a fact, that a person suffering with what is commonly known as softening of the brain, does at times talk perfectly rational and with good memory about ordinary business indicate that he is in any condition to transact important business, assuming that the disease of softening of the brain has progressed so far that two or three weeks prior to such time he was not of sufficient mental capacity to transact business ?

A A person suffering from a disease of that sort might have intervals of apparent rationality, but I do not believe any one with organic disease of the brain, that has progressed to that stage is in a condition to exercise reasonably good

judgment and not be influenced by trivial matters.

43 Q Assuming that a man made a will and deeds to operate as a will on the 21st of November, 1905, and assuming that his doctor or a competent physician diagnosed his case as softening of the brain and believed that on the 4th or 8th of November that these had progressed too far for him, the doctor, to safely transact any business with him, what would be your judgment as to whether or not by the said 21st of November his mental condition could have been so much better as to enable him to properly transact business ?

Judge Duncan: The question and any answer thereto is objected to because it utterly excludes the testimony of his physician as to his condition on the 16th day of November, 1905, at which time the doctor has testified that he was fully and entirely competent to transact business and he would have been willing to have had almost any important transaction of business with him.

44 Q I incorporate Judge Duncan's question into my question and I ask you, judging from your experience with the disease, whether it was natural for him to have so mended mentally as to be able to transact very important business on November 21st ?

A I personally would not be willing to transact any important business with an individual suffering from softening of the brain previously, no matter what his apparent condition was because it is a fact that it is an organic condition that

does not tend materially towards improvement so the effect on the mind might vary more or less from time to time.

Cross examined by Judge C. T. Duncan.

45 Q Did you have any acquaintance with S. S. Slemp ?

A None at all.

46 Q If at the time a man was making a deed or having a will prepared he was able to call the names of all the grantees and devisees in said will and deed and was able to tell where and what each one's part should be and state correctly what the number of each of the tracts of land disposed of was, would you or not say that he was competent to dispose of that property ?

A As I stated a little while ago, I do not know what the legal requirements are as to a man's capacity to make a will. I believe that a man might know how much property he had and the names of the parties he proposed to leave it to and know how much property he had and at the same time not be of sound mind.

47 Q Suppose a man had frequently and several years before his death declared the disposition he intended to make of his property and suppose when he came to dispose of it he made that disposition in accordance with his previously expressed intention, would you not say he was competent to transact business at the time he was disposing of his property ?

A Yes, sir, I would.

Mr. Chalkley: Question is objected to because it is not supported by the evidence adduced in the case.

48 Q Suppose on the day that Mr. Slemp made his will, and executed two deeds in the pleadings mentioned he was able to tell correctly the amount of land he owned, naming the different parcels thereof, from whom he had purchased the same, the lines and corners thereof, the amount of money, notes and checks he had, and was fully cognizant of the persons to whom he desired to convey his lands and bequeath his personal estate, would you say he was competent or incompetent to transact business which he was then transacting ?

A Without taking into consideration anything except the question asked and leaving out any previous or subsequent conditions, the indication would be that he was able to dispose of that property.

49 Q In a case of softening of the brain, is it probable that one eye or both eyes will be affected ? If so, how much and to what extent ?

A There would not necessarily be an involvement of the eye, although it is quite frequent in cases of diseased blood vessels of the brain that they may have hemorrhages into the retina of one or both eyes.

50 Q Suppose a person should have swimming of the head occasionally and tingling in the arms and legs, what disease would be indicated by such condition ?

A Those slight symptoms might be due to a variety of

causes. It might be an indication of a disordered circulation of the brain or it might be due to intestinal digestive disturbances not sufficient to justify any statement as to the cause .

51 Q Suppose during all the period mentioned by the hypothetical question propounded to you by Mr Chalkley, Mr Slemp did transact his business and transacted it well and correctly and intelligently. What would you say was his probable condition as to the transaction of business on November 21st, 1905 ?

A I should say if he had transacted his business intelligently and sensibly in that time, he was probably able to do it on the 21st.

52 Q Suppose one or two or three or four years before the date when he had made his will and deeds he had purchased a tract of land and on that day he declared to the person from whom he purchased it that he was purchasing it for his brother Al, and when he came to dispose of his property he conveyed it to his brother Al, would you or not say that on that day when he made that deed he was capable of making it ?

Mr Chalkley: The question is objected to because not supported by evidence in the case.

Judge Duncan: I think it is, but for fear it is not, I will avow that I will prove that fact by Charles E. Flannery, the man from whom he purchased the land.

I think that would indicate he was competent so far as

that particular fact was concerned, although that would not necessarily indicate he was competent on other points.

53 Q Suppose Mr. Slemp's family physician visited him on November 16th, 1905, and found Slemp in a condition that, according to his judgment, was fully competent to transact any kind of business and who on that day tried to purchase from him a tract of land and he again visited him on the 2d day of December and found his condition about the same or equally favorable, would you not believe that in all human probability he was fully competent, if these facts are true, to transact business on November 21st, 1905 ?

Mr. Chalkley: The question is objected to because it excludes a considerable part of the evidence, not only by complainants, but by defendants themselves and because the doctor to whom the question refers is a witness for the defendant and said doctor has testified that said S. S. Slemp was at that time suffering from chronic softening of the brain and had been so suffering for a considerable period of time of this disease and that this disease was finally the cause of his death.

A Does your question exclude anything prior to this 16th ?

54 Q Yes, because I don't think there was anything prior to that.

A I just wanted to know what you meant.

55 Q Yes, that excludes everything but exactly what I said.

A That even excludes the doctor's diagnosis ? I want to answer fairly.

56Q That excludes everything but what is embraced in the question.

A I would say in answer to that that if S. S. Slomp was not at that time suffering from degenerative disease of the brain, the chances are that he was competent on the 21st if he was on the 16th or on the 2d of December. If he was subject of organic degenerative disease of the brain, it is uncertain in my mind.

57 Q Suppose that when the family physician visited him for the first time on November 4th, 1905, he found Slomp going around about the house complaining some of swimming in the head and some slight tingling in one of his arms and neck and that he visited him on November 8th and found his head swimming continued along about that time, and again he visited him on November 16th and found him much better and that he seemed to remember everything that he talked about and that his mind was in such a condition as that he believed him to be perfectly competent to transact any kind of business, that on that day he did attempt to make an important business transaction with him and again visited him December 2d and found the same condition continuing as he found on November 16th, what would you say as to his probable ability to transact business on November 21st ?

Mr Chalkley: The question is objected to because it does not include all of the evidence given by defendant's own witnesses of the attending physician aforesaid on those days

and does not give the physician's diagnosis of the case on those days, merely giving a collateral condition about which said physician testified, and therefore, which is an important question to submit to another physician testifying as an expert.

A The tingling in the arm and the existence of a certain amount of dizziness early in the month would not imply that there was necessarily any mental impairment either at that time or later.

58 Q Is the failure to be able to speak another person's name or even to call the person spoken to by the wrong name any evidence of a want of capacity to transact business intelligently ?

A I would say that that depends on whether that condition was habitual or not. If habitual, it would indicate a certain amount of mental impairment.

Re direct examination by Mr Chalkley.

59 Q Assume in this last question asked you by Judge Duncan that the person was a man between sixty and sixty-five years old suffering with a disease which his family physician has diagnosed as chronic softening of the brain, ^{what} would you say this impairment of memory would indicate ?

A It would indicate that it was correct in his diagnosis, That is one of the frequent manifestations of a diseased brain.

60 Q In the question asked you just now by Judge Duncan referring to three or four visits to the patient by his family physician, assume further that prior to November 4th, for a period of four or five months, the said physician's father, who was also a physician and his partner, had been treating him at regular periods for the trouble which the son afterwards diagnosed as chronic softening of the brain, would this fact throw any more doubt in your mind on the patient's recovery by November 21st in a sufficient degree to make him capable of transacting important business or not ?

Judge Duncan: The question is objected to because no evidence upon which such question can be founded is in the record.

A If he had been treated still prior to the time indicated by the first question by other physicians for softening of the brain, it would confirm the opinion that he was not of sound mind on the 21st of November.

61 Q There was one question that I forgot to ask on direct examination that I want to ask now: Assuming that along in December of 1905, S. S. Slemp likewise had some kidney or bladder trouble which required him to urinate twenty-five or thirty times at night, would that or not be a symptom of the disease about which we have been examining you ?

A I think not.

JOHN J. MOREN, called for the contestant , being by me duly cautioned and sworn to tell the truth, the whole truth and nothing but the truth, and being interrogated by Mr Chalkley, deposed and said as follows:

/ Q State your name, age , residence and occupation ?

A John J. Moren; age thirty-seven; Louisville, Kentucky; physician.

2 Q Please state fully what medical education you have ?

A I graduated in Louisville and have had post graduate work in New York, Chicago and Europe. I have been doing nervous diseases ever since I graduated. I have been connected with the hospital as an associate professor of nervous and mental diseases in the University of Louisville.

3 Q How long have you been practicing ?

A I was graduated in 1894.

4 Q In connection with mental and nervous diseases I take it that you have had frequent cases of what is commonly known as softening of the brain. Please state what classes of diseases are known to the lay mind as softening of the brain?

A Softening of the brain to the lay mind usually means a mental state terminating in dementia or lack of mind. That may include a variety of mental states that terminate in dementia. To the doctor softening of the brain means a general paresis. The common name for it is dementia paralytic or what they call paresis to-day.

5 Q Do all of the class of mental diseases that are known to

the lay mind as softening of the brain have the same general tendency with reference to the patient's physical condition and ultimate mental condition ?

A As to the ultimate mental condition, it means the same because it terminates in final complete weakness mentally as the word dementia means to be without mind.

6 Q What are the physical effects which the disease softening of the brain have on a human person ?

A There is a decided disturbance in the nutrition. The patient is very likely to have epileptoid and hemiplegic attacks or may have true hemiplegia and there is always a disturbance more or less in the faculty of speech. In the true cases of paresis we have a typical speech and in another form of softening of the brain that is used by the laity the so-called senile dementia; instead of having a typical speech, they have a typical effasia. That may be loss of memory or any form that we call para-effasia where they use the wrong word.

7 Q At what age of the patient does senile dementia occur ?

A Usually after sixty.

8 Q "Is it or not apt to occur in some patients at a much earlier age than others ?

A It may.

9 Q Please state what the mental effects are produced by the disease known as softening of the brain and in this question I shall ask you to make two classes, that is, one class of

softening of the brain as it is known to physicians and the other senile dementia ?

~~Q~~ A The mental symptoms of paresis are usually characterized by well formed delusions. There is a decided change in character. There is loss of memory. There is a loss of feeling towards friends and relatives, in fact, a complete change of character in feeling and attitude towards friends and relatives. They may have delusions which are very common, either of grandeur or persecution. They seldom, however, they may have hallucinations. In the so-called softening of the brain or senile dementia, one of the first symptoms is the loss of memory. Oftentimes it is manifested by a change in the individual from a moral man to an immoral man. It may be noticed that he is becoming of a decided disposition to pass certain friends or relatives. He may think that he is persecuting him in some way or other. He may lose himself in going from one place to another. He may be only a square away from his home and he may get lost. He becomes more or less, as the disease progresses, of this tendency. It will increase and his memory will follow the particular matter -- certain events, which is characteristic. Also they may commonly have dizziness and symptoms of that nature which is directed to a disordered circulation.

~~Q~~ Q What effect does it have on the patient with reference to his ability to hold a connected conversation ?

A Sometimes very decided. They will harp on past events

and they may start a conversation and on account of their loss of the power of continuation they will lose the trend of thought and drift into something else which happens to be in their mind

11 Q What progress would you say the disease had made if one of the symptoms to which you have just referred was evinced, namely, that the patient would lose himself on grounds near his home with which he had been familiar for forty years ?

A I would think it was rather a pronounced disturbance.

12 Q What is the usual course of these diseases ?

A In senile dementia usually three to six years; general paresis, three years. The average is three years, terminating in death.

13 Q What is the effect of these diseases ? If there is a difference you may state separately as to each on the patient's capacity and ability to transact business ?

A Quite a good deal of difference . If the symptom group has presented itself enough to enable you to diagnose general paresis, I do not believe any man is competent to make a will. In senile dementia progress is slower and being dependent more or less on the change in the arterial system as well as in the brain cells, the progress is slower and he may hold his testamentary capacity longer than the general paretic.

14 Q I now ask you to follow a hypothetical question based on evidence introduced in said cases as follows:

Assume it to be a fact that S. S. Slomp died in the latter part of November, 1906, at the age of sixty-one or sixty-two years from softening of the brain or what is commonly known as softening of the brain to the lay mind and where the case was also diagnosed by a competent physician as softening of the brain; that as long as two years or at least eighteen months before his death, he was one or more times affected with dizziness or swimming of the head; that in July and August 1905 he had a fainting spell near his home and had to be carried to his home in an unconscious condition and was thereafter confined to his home for several days; that in a few days he got up and was able to be out and about his place and to walk or ride about the neighborhood, sometimes with an attendant, sometimes without, but that from this time on to November, 21, 1905, he frequently exhibited loss of memory, of names, of persons, and of other things which were very familiar to him and frequently talked flighty, that is, he would start to talk on one subject and then change off to another having no connection with the first, or would sometimes talk sensibly for a while and then commence to talk more or less irrational and at other times during this period between July and November 21st, he would seem to be himself a while and talk sensibly to his friends and neighbors; that about the last of October or the first of November, 1905, a man who owed him some money went to his house to pay it and did pay him and then ate dinner, and just after dinner

Mr. Slemp called on him to pay the balance of the money he owed him, having forgotten that the whole of the money had been paid before dinner; that along about the 31st of October he was present where he and a number of his friends were paying their taxes and a matter arose about the payment of his taxes he did not thoroughly understand, or seemed to be unable to comprehend and he made the impression on his friends that something was wrong with him mentally, that in the early part of November, 1905, he grew worse and on November 4th and 8th when visited by his physician, Dr. J. A. Gilmer, he complained of dizziness and head swimming and showed loss of memory in forgetting the names of persons he would talk about, that he would call them by the wrong names; that by the 16th of November he had improved considerably; that on the morning of the 21st of November he sent for William Coomer, a man who worked on his farm, and told him (Coomer) that he wanted him (Coomer) to go over and tell Squire Clarkston, a neighbor he had known for years and who lived about a mile southeast of Slemp's farm, to come over to his house; that Coomer then told Slemp that he would like to have one dollar on account and Slemp thereupon handed him a five dollar bill and Coomer told him that it was five dollars instead of one dollar; that Slemp replied that he knew what he was doing, that he knew it was a one doll ar bill; that Coomer called Slemp's wife and she came and she saw the bill and assured Slemp that it was a five dollar bill and Slemp insisted that it was a

one dollar bill and said they were trying to make out that he had no sense, or words to that effect; that Mrs. Slemp told Coomer to take the five dollars and she would charge it to his account; that Coomer did so and went over to Clarkston's and asked him to come over to Slemp's; that when he came back to Slemp's, Slemp asked him (Coomer) if he had gotten the men off the railroad; that the railroad was north of Slemp's house and Clarkston lived to the south of the house and further from the railroad than Slemp's house; that Clarkston and another neighbor, Harvey Young, for whom Slemp had possibly sent, came to the house about noon and having been previously told that Slemp wanted them to draw up his will, commenced talking with him on the subject; that he said to them that some people were saying that he was not in his right mind and he asked them their opinion on the subject; that he at that time appeared to Clarkston and Young entirely rational; that they told him that they thought he was all right and they after talking to him and learning how he wished to dispose of his property, prepared two deeds conveying all of his real estate to his four brothers and his wife and a will devising his personal property to his wife, he having no children, leaving nothing whatever to two of his sisters, one of whom had helped to rear him at the death of his mother and of whom he seemed to be quite fond, which deeds and will were on that afternoon signed by him, Slemp; notwithstanding the fact that Slemp appeared entirely ration-

al to Clarkston and Young, yet, a doctor, Dr Edwards, happened to come about noon for the purpose of a skin per mission to hunt quail on Slempe's farm; that he only saw Slempe for a few minutes and he was impressed by something that Slempe did or said that something was wrong with him, so much so, that the doctor remarked to his friend on leaving, "I wonder if he is fit to do business with," or something to that effect; that about a month after his will was made, his condition was such that he would drink water out of a wash-pan after someone had washed therein; and his family had to throw it out of the pan to prevent him from so doing; that early in December Slempe grew worse, gradually getting worse and worse physically and mentally until some days before his death he was in a comatose state and scarcely knew anything and finally died of softening of the brain on or about November 21, 1906, just a year after he made his will. Now, assuming that the above facts are true, please give your opinion on the following questions:

1. What was the mental condition of said Slempe on November 21, 1905 ?

Judge Duncan: The foregoing question and answer thereto is objected to because the whole evidence is not embraced in the question and not sufficient amount of evidence is embraced to afford a reasonable hypothesis for an opinion and because it is irrelevant and immaterial.

A That was the time he made his will ?

15 Q Yes ?

A From the history you read, it is my opinion that that man was suffering from senile dementia and if he suffered with disinterest and loss of memory, flighty spells, I would be very much of the opinion that his state of mind continued during that period and might be the same, and absolutely unreliable to follow any train of special thought or action.

16 Q Assuming these facts, was he then or not of sound mind ?

Judge Duncan: The same objection.

A I believe he was of unsound mind.

17 Q What would you say as to his memory as to his having what is known in the law as a disposing memory ?

A It is shown that his memory was bad, was fickle, and I would think it would hold true as to the disposition or anything that might come along. Right at the time he might want his memory it might be just as fickle as at any other time. It would be absolutely unreliable.

18 Q I believe you have covered this question but I will ask you again: was he or not on that day mentally capable of making a will and transacting important business ?

Judge Duncan: I object to that question for the same reason.

A I would think it would be very doubtful.

19 Q Give your reasons for this opinion although it may cause you to repeat somewhat .

A A man who has reached beyond sixty years of age and is

suffering from dizziness and flightiness, irritable -- who would talk about getting men off the railroad in an opposite direction from what he had sent a man, who would show decided mental weakness, not a temporary condition but dependent on some pathological condition, and more or less prevalent, if he were in a bad condition one month, the chances are that he would be in a bad condition another month.

20 Q Assuming the history of the case I have given above to be true, what would be your opinion of his mental condition in September, October and November, 1906, that is, the last three months of his life and was he then or not capable of transacting important business ?

A He died in December ?

21 Q He died about November 21st. These are the last three months of his life.

A I think his mental condition would be very bad.

22 Q Do you or not think from the progress of the disease detailed to you that he would be capable of transacting any business of any importance ?

A I would not.

23 Q Now, assuming the history of the case that I have read to you, and assuming the facts set forth in the hypothetical question above asked you, except that in addition to the statement given you, one of two witnesses to his will, the man who drew the will, instead of believing that he was in a good mental condition in every respect on that day, as testified

and as recited in the said question, suppose that that man said his mind was clear as to all questions involved in the making of the will and deeds, but as to all other questions and conversations on that day his mind was all off, what effect would that have on your opinion ?

Judge Duncan: Objected to because there is no evidence to justify the asking of any such question.

A I think that is a very inconsistent state of mind. I cannot see how a man can be perfectly rational on the disposition of property and be irrational on other questions.

Counsel for complainants avows that he will show by proper evidence that Harvey Young, one of the witnesses heretofore referred to, made the statement embraced in the foregoing question.

24 Q Now, assuming that the different conversations referred to by Young in which he says he was irrational occurred during the course of the day, that is, they were at Slomp's house some five or six hours, would that have any tendency to increase or decrease your belief as to the possibility of the condition assumed by Young being true ?

A I do not think that would influence me, basing my opinion upon the other facts and the statement of the case.

25 Q Now, in the hypothetical question above, leave out the above recited facts about the man Coomer and the five dollar bill and the conversation between Slomp and Coomer after his return to Slomp's house and assume that those two matters did

not occur and assuming that the other facts stated are true; state whether the non occurrence of these matters would change your opinion ? If so, how much and how ?

A I do nt think it would change my opinion.

26 Q Does the fact, if it be a fact, that a person suffering with softening of the brain, can and does at times talk perfectly rational and with good memory about his ordinary business affairs, indicate that he is then in a condition to transact important business, assuming that the disease of softening of the brain had progressed so far that two weeks prior thereto he had not sufficient mental capacity to transact business ?

A It might. I would be inclined to believe that it would affect him in transacting important matters.

27 Q State approximately how many cases of mental aberration have come under your observation during the course of your practice ?

A I could not give an estimate. I have seen a number of cases besides seeing a great many at the asylum. I have seen quite a number of cases. I have spent now in all four months lecturing on diseases of the mind and I have had the class up at the asylum several times, not this year but previous years and I have seen a great many cases. I could not estimate how many - a great many.

28 Q Have you or not had to do with quite a number of these cases in your own practice ?

A I have seen a number of them in my private practice.

Cross examined by Judge C. T. Duncan.

29 Q I wont detain you long: Did you ever have any acquaintance with S. S. Slemp ?

A None whatever.

30 Q If, at the time a man was making or having a will prepared he knew the subjects of his bounty and was able to call the names of all the grantees and devisees and was able to tell where and wht each one's part should be and to state correctly the number of acres in each tract of land disposed of and correctly state the amount of money he had on hand and was disposing of, would you not say that he was fully competent to dispose of that property and transact that business ?

A I would think so.

Mr. Chalkley: That question is objected to because it excludes the greater part of the evidence in these cases, not only evidence of complainants, but likewise nearly all of the evidence of defendants themselves and does not put the witness in possession of facts with reference to S. S. Slemp's prior and subsequent mental condition which would enable the witness to answer the question intelligently and satisfactorily to himself.

31 Q Suppose a man had frequently and for several years before his death declared the disposition he intended to make of his property when he came to dispose of it he made
and suppose

that disposition according to his previously expressed intentions or substantially so, would you say he was competent or incompetent to transact that business at the time he so disposed of his property ?

Mr. Chalkley: That question is objected to because immaterial and irrelevant and because the record in the cases does not give the facts upon which the question can be properly based .

A I would answer that in the affirmative.

32 Q Suppose that on the day that Mr. Slomp made his will and executed the two deeds he was able to tell correctly the amount of land he owned, naming the different parcels, from whom he purchased the same, the lines and corners thereto and was fully conscious of the persons whom he desired to convey his land and bequeath his personal estate to, would you say he was competent to transact the business that he was then transacting ?

A A man may retain the memory of his possessions but he may be disposed to favor or disfavor some individuals.

33 Q Suppose during all the period mentioned in the hypothetical question up to September, 1906, Mr. Slomp was able to transact and did transact his business well and intelligently, what would you say was his probable condition as to the transaction of business on November 21, 1905 ?

A I would think a man who attended to business in that time and showed he could attend to business and did attend to it --

34 Q What he was capable of it if he did it intelligently ?

A Yes, sir.

35 Q Suppose Mr Slemp's family physician visited him on November 16th and found him in the opinion of said doctor fully able to transact the most important business and again visited him on December 6th and found him in like condition, what would you say was his probable condition on November 21st as to his ability to transact business ?

A Possibly the same as on the 16th and on the 2d.

36 Q A part of the hypothetical question asked you by Mr. Chalkley is based on what he assumes to have been a fainting spell which occurred in the summer or early fall of 1905. Now, suppose that that fainting spell occurred immediately after Mr Slemp had had a severe fall from the top of an old house alighting on the back of his head and shoulders, could you say that his fainting spell was the result of disease or the result of his fall ?

A I would say that the disease, his age, was the primary, and the fall was the exciting cause. It acted only as an exciting cause.

37 Q Suppose the incident of him paying the money mentioned in the question, instead of the payor paying the money in full, he had really left a balance unpaid, to which Mr Slemp called his attention, would you recall that as any evidence of weak mind in Mr Slemp ?

A I would think not.

Mr. Chalkley: The question is objected to because there is no evidence remotely tending to support the state of facts alleged.

Judge Duncan: I avow if there is no evidence of that kind in yet, I will prove it.

38 Q In the case of softening of the brain, is it probable that one eye would be affected ?

A It may be affected by hemorrhage. As a rule there is no definite eye symptom in an ordinary case of softening of the brain, but one eye may become affected by other conditions like cataract or diseases of that nature outside of the nervous system.

39 Q What is the first discoverable symptom of softening of the brain ?

A I ask you which disease you mean by softening of the brain ?

40 Q I do not know, I will get you to explain.

A In senile dementia, senile changes, the first symptom is usually that of advanced age, and failing memory is one of the first signs of the approach of the disorder. In general paresis which is known to us doctors as softening of the brain --

41 Q Wait a moment: Is that what the doctors frequently call softening of the brain ?

A General paresis ?

42 Q Yes .

A I expect it is, and they mean by that, there is quite a confusion as to the nomenclature of mental diseases--the first approach of general paresis -- what we know as softening of the brain -- is oftentimes a convulsion or it may be epileptoid attack or it may be a delusion of grandeur, a man claiming that he is worth millions when he has not a cent in his pocket or a man claiming that he is persecuted when there is no ground on earth for it, or it may be a sudden change , a man changing from one character to another, he knowing nothing about it. In the senile change, the change comes on gradually following the loss of memory. They may notice a defect in circulation in some way and they may complain of a tingling sensation in the arms and hands and they may have dizziness and may have attacks of syncope or fainting. They may have attacks of mental disturbance and finally wind up with an attack of apoplexy -- coma.

43 Q In the disease known as chronic softening of the brain, after said disease has progressed for a while and to some extent, are there not lucid intervals in which a person is fully competent to transact business ?

A There may be, but the intervals would be very short and very unreliable because in these conditions where there is destruction of tissue, there is an absence of other functions necessarily, consequently the activity of the brain cannot go ahead as it used to.

Cross examined by Mr. Chalkley.

44 Q Assuming that the business of Mr. Slomp about which Judge

Duncan has spoken and which he said he was abundantly able to transact was a mere matter of feeding a little stock, transferring a few cattle from one field to another, would that indicate any strong or increased mentality or not ?

I would think not.

45 Q Assuming so far as simple business matters were concerned, his making simple trades of cattle or other small business transactions involving the payment or receiving of money, the said S. S. Slemp declined to transact to carry out the transaction himself either through fear of his ability or otherwise but called on his wife or his brothers to do so, what would be your idea as to the strength of his mentality from these facts ?

Judge Duncan: Objected to because not supported by any evidence in the case.

A I think that would show evidence that he was not competent to conduct his affairs and business.

46 Q Do you or not think that that would show that S. S. Slemp himself realized that his mind was weak and that he had lost his mental powers ?

I think it does.

47 Q Is it or not a fact that patients often become aware of this deterioration and sensitive about it and are cognizant of it at all times ?

A Not at all times, but the senile cases often appreciate it.

Re cross examined by Judge C. T. Duncan.

48 Q Assuming that Mr. Slemp's business was that of managing a large and very productive farm, buying and selling horses and cattle and lending money and taking notes therefor and business of that kind, and supposing that he was able to transact that in most careful manner, would you not regard that as a strong evidence of his ability to do business ?

Mr. Chalkley: Question objected to because there is no evidence tending to prove the state of facts suggested, and because the evidence of both sides shows a state of facts contrary thereto.

A Yes, sir.

49 Q Mr. Chalkley asked you if Mr. Slemp occasionally called on his wife or other persons to aid him in the transaction of business if you didnt think that was an evidence of his distrust of himself. Now, do you not think that the very fact that on the 21st day of November, 1905, when he undertook to dispose of the whole of his estate it was and is an evidence that at that time he regarded himself as fully competent to do so ?

Mr. Chalkley: Question objected to because the evidence does show that on said 21st day of November said Slemp did not rely on his judgment but relied on the judgment of Young and Clarkston, the two witnesses to the will and deeds

A He doubted his own ability. The question is was he capable of disposing of and knowing all of his property at

that time and I would think, judging from the facts that
have been told me, that it would be doubtful.

State of Kentucky :
:ss.

Counth of Jefferson :

I, Clarence E. Walker, a Notary Public within and for the county and state aforesaid, my commission as such expiring on March 9, 1912, do hereby certify that the foregoing depositions of James S. Chenoweth and John J. Moren were duly taken and reduced to writing by me at the time and place and in the actions mentioned in the caption of said depositions, the signatures of the said witnesses to their respective depositions and the reading of the same to them being waived by counsel for the respective parties, the taking being under the annexed notice.

In witness whereof I have hereunto set my hand and official seal this 8th day of February, 1909.

Clarence E. Walker

Notary Public, Jefferson County, Kentucky.

State of Kentucky :
:ss.

Counth of Jefferson :

I, Clarence E. Walker, a Notary Public within and for the county and state aforesaid, my commission as such expiring on March 9, 1912, do hereby certify that the foregoing depositions of James S. Chenoweth and John J. Moren were duly taken and reduced to writing by me at the time and place and in the actions mentioned in the caption of said depositions, the signatures of the said witnesses to their respective depositions and the reading of the same to them being waived by counsel for the respective parties, the taking being under the annexed notice.

In witness whereof I have hereunto set my hand and official seal this 8th day of February, 1909.

Clarence E. Walker

Notary Public, Jefferson County, Kentucky.

S. M. Hambley, et al,
13. } Depositions for
complaints

Alfred Slomp, et al,

Received by mail in
good condition and
filed Feb. 9th, 1909.

H. C. S. Ewing,
Clerk.

STATE OF VIRGINIA: COUNTY OF LEE, to-wit:

This day S. M. Wampler personally appeared before me,
A. C. Brown, a Notary Public in and for the County and
State aforesaid, and made oath that Malissa Howard, against whom a
suit in equity is about to be instituted in the Circuit Court of
Lee County by S. M. Wampler and others is a non-resident of this
Commonwealth.

Given under my hand this 24th day of August, 1907.
My Commission expires on the 8 day of May, 1909.

A. C. Brown

Notary Public.

D. M. Thompson et al.

} Affidavit as to non
residence of Malissa
Howard.

Alfred Kemp et al.

Filed Aug. 24, 1907.

H. C. J. Ewing, Clerk.

State of Virginia, County of Wise, to-wit:

J. B. Bullitt
This day *S. M. Wampler* personally appeared before me,
G. L. Taylor, a Notary Public in and for the County
and State aforesaid, and made oath before me that John J. Reese,
Ate Reese, Arthur Reese, Cora Patterson, and Flora C. Courn, against
whom a suit in equity is about to be instituted in the Circuit
by S. Melvina Wampler and others,
Court of Lee County, Virginia, are non-residents of this Common-
wealth.

Given under my hand this 1st day of July, 1908.
My Commission expires on the 4th day of January, 1911.

G. L. Taylor
Notary Public.

S. Melvina Hampter et al

no { Affidavit
for
Order of Publication

F. J. Ridder et al.

Filed July 2, 1908.
H. C. D. Ewing,
Clerk.

STATE OF VIRGINIA : COUNTY OF LEE : To-wit:

This day S. M. Wampler personally appeared before me,
A. C. Brown, a Notary Public in and for the County
and State aforesaid, and made oath that Malissa Howard, against
whom a suit in equity is about to be instituted in the Circuit Court
Of Lee County by S. M. ^{Malissa}Wampler and others is a non-resident of this
Commonwealth.

Given under my hand this 22 day of August, 1907.

My Commission expires on the 8 day of May, 1909

A. C. Brown
Notary Public, Lee Co. Va.

D. Melvina Sampson et al.

} Affidavit as to non-
residence of Melvina
Howard.

J. J. Rudden, et al.

Filed Aug. 24, 1907.

H. C. J. Ewing Clerk.

State of Virginia: County of Whit to-wit:

This day J. F. Bullitt
S. W. Wampler, personally appeared before
me, J. H. Taylor, a Notary Public in and for the
County and State aforesaid, and made oath that John J. Reese, Ate
Reese, Arthur Reese, Cora Patterson, and Flora C. Courn, against
whom a suit in equity is about to be instituted in the Circuit
Court of Lee County, by ~~Scott~~ Florence Coomer, and others, are non
-residents of this Commonwealth.

Given under my hand this 1st day of July, 1908.

My Commission expires on the 4th day of January, 1911.

J. H. Taylor
Notary Public.

Florence Comer et al

vs { Affidavit
for
Order of Publication

J. H. Kemp, et al

Filed July 2, 1908.

H. C. J. Ewing, Clerk.

- Wampler v. Slump -
 Note of authorities for defendants -
 I in Testimony Capact. -
 ✓ Burr v. Burr 9 Matt. 336
 ✓ Beverly v. Waldron 20 Matt 147
 ✓ Porter v. Porter 89 Va 118
 ✓ Fishburne v. Ferguson 84 Va 87
 ✓ Carter v. Carter 82 " 624
 ✓ 28 A T. Euc Law (2nd Ed.) 77-84 + 100

II On Delivery of Deeds.

✓ 2 Min Inst p 1733.
 ✓ 4 A T. Euc Law (2nd Ed.) 15-3
 ✓ Pallock v. Glascoe 2 Matt 454 (456)
 ✓ Hutchinson v. Rust 2 Matt 394
 ✓ Michie notes to 12 Matt 709. On "Deeds"

III On Reading Depo at Trial -

✓ Smith v. Proffitt 82 Va 832
 ✓ 6 Euc. Pl & Pr p 572
 ✓ Bort's Law Pr (2nd Ed) 448
 ✓ 4 Min Inst (3rd Ed) 842

date	Plaintiffs' witnesses Name	Page of deposition
Aug. 20, 1908	Joshua E. Nabbs	1
Aug. 20, 1908	Elkanah Pennington	9
Aug. 20, 1908	J. K. P. Barron	17
Aug. 20, 1908	J. J. Flannery	29
Aug. 20, 1908	P. E. Slump	32
Aug. 20, 1908	D. S. Reason	37
Aug. 21, 1908	C. M. Slump	44
Aug. 28, 1908	Dr. J. H. Edmonds	64
Aug. 28, 1908	Will Coomer	77
Aug. 28, 1908	W. Alward	101
Aug. 28, 1908	H. C. S. Reason	113
Nov. 27, 1908	E. S. Stout	1
Nov. 27, 1908	C. D. Bailey	4
Nov. 27, 1908	W. Alward	8
Nov. 27, 1908	Mrs. Valere Davis	12
Nov. 27, 1908	F. M. Clarkston	21
Nov. 28, 1908	Rial Lawson	1
Nov. 30, 1908	H. C. Reason	8
Jan. 28, 1909	L. M. Wade	1
Jan. 28, 1909	B. C. Jones	
Jan. 28, 1909	J. J. Shuler (or Coomer - "Shuler" in caption - "Coomer" in dep.)	
Jan. 29, 1909	J. S. Chenoweth	1
Jan. 29, 1909	John J. Moran	25

	name	Defendants' witnesses:	Page of Dep.
Aug. 28, 1908	Harvie Young		1
Aug. 29, 1908	J. A. Gilmer		26
Aug. 29, 1908	John Gilley		56
Aug. 29, 1908	W. S. Alderson		74
Aug. 29, 1908	Jno. J. Reason		84
Aug. 29, 1908	J. B. F. Olinger		88
Aug. 29, 1908	Jonathan Ward		97
Sept. 1, 1908	F. M. Clarkston		105-

April 22, 1909	W. M. Slump		1
April 22, 1909	O. M. Reason		10
April 22, 1909	G. C. Gilmer		16
April 23, 1909	John Gilley		30
April 23, 1909	John Slump		32
April 23, 1909	David Slump		55
April 23, 1909	Alfred Slump		55

Bullitt & Chalkley's Notes &c
S. S. Slump Will Case
Notes for Argument
I

The deposition of Sef Slump, John Slump and Maria Slump should be excluded because incompetent.

- # X. 1. Section 3346 provides (Read it)
2. They say Robt G. Slump was called by us & W. G.
- (a) He testified that Dan told him he had made his will and had left property to the boys and that he had wanted it to go as the law directs. He said nothing about deeds.
- b. His testimony therefore is not relevant. Admissible in deed cases.
- (c) He further testified that he was then in his right mind. This evidence so far as it went was therefore for not against defendants.
- # See Buckholder vs. Gudlam 30 G. 255 which holds that though a witness was a party to the transaction yet if he testifies against his own interest he is not incompetent.

(d) But we have not read deposition of R. G. Slump W. G.

1^c A deposition not read is no part of the record.

1 Michie 513 & cases cited

2^c Our book expressly provides that a deposition if not read on the trial by the party taking it may be read by the other party.
See 3367

In Virginia it is held that portions of a deposition may be read by opposite party leaving balance to be read by party taking it if he so desires.

2 Bartons Ch. (2 ed) p 803.

3^c A witness has not testified until his deposition has been read.

Here quote from Hardin v.

Taylor 78 Ky 545

30 A. & E. 985 (see notes)

~~Stenographer will~~

Stenographer will copy.

4^c This contention is over-

ruled by Code Sec 3349

(Read it) This was to correct decision in 75 Va. 690

We submit therefore that

these depositions cannot be read

But we will first discuss case

without these depositions and

then with same.

typewritten
For this case see my notes all above

II

In to mental capacity of
Destruction.

1. We claim he had chronic
softening of the brain which
began to show itself in a
very marked way in the sum-
mer of 1905 and terminated
fatally in Nov. 22, 1906.
What is softening of the brain w.c.
is Paralysis

Yes senile dementia

They both are due to a deficient
blood supply - the arteries are clogged
up & -

Regeneration, disintegration & -
follows.

The disease is thus described
by Blund & Peterson in Nervous
and Mental Diseases.

See from p 216 - 217 & 8
804 - 805

In senile dementia there is
no recovery and no such thing
as a lucid interval. There may
be a remission but no cure

Dr. Moreau & Dr. Lechevalier
explain this &

See also Under Hill 131, 132
See also Gardner or Wiles p 125

S. M. Wampler, et al,

vs.

Alfred Slomp, et al.

Authorities for Trial.

1: On capacity required:

Section 13, Michie, 709-719

Chappel vs. Trent, 90 Va. 849,

Gray vs. Runnell 101 Va. 507.

2: Burden of proof is on and issue of devisavit vel non is on propounders of will.

Gray vs. Runnell, 101 Va. 507, 512.

The proof of testamentary capacity must be clear and convincing.

This was a case like ours, where the will had been probated and bill in equity afterwards brought to set will aside because of mental incapacity.

See also cases cited in 13 Michie, page 713.

But see reference in 13 Michie, 714, where the author says: "In an action to set aside a will, the burden of proof as to incapacity of the testator is on the plaintiff", citing Burton vs. Scott, 3 Rand. 399, and Chappel vs. Trent, 90 Va. 849. Chappel vs. Trent does not sustain the text. On the contrary it clearly states that the burden is on those seeking to uphold the will. See p. 927. Burton vs. Trent does seem to sustain text, or at least to deny that burden is on those claiming under will to prove sanity in every case. See p. 400. But this was in a case of probate. It is, therefore, contrary to a number of recent Virginia cases. See Barton Ch. (2ed) p. 604. Settles this question but see if 607.8 as to mental capacity in Virginia, burden is on propounder. See 2 Barton (2 Ed.) p. 610, and inst. for good one in our case.

3: Trial by jury must be ordered to determine whether it is will of testator. Code 2544.

4: As to competency of witnesses.

It is claimed that we have rendered the Slemps competent in the deed case by introducing one of the plaintiffs to testify for us. Code 3346 and notes.

Robert Lee Slomp testified to two things, 1st. That Bass Slomp, in July, 1906, told him he had made his will and had left property to boys, and that he had wanted it to go as the law directs, --he said nothing about deeds. 2nd. That he was then in right mind.

As to 2nd statement which was on cross-examination, see Buckholder vs. Indlam, 30 Gratt 255, which holds that though a witness was party to a transaction to which other party is dead, yet if he testifies against his own interest and against interest of those having an interest adverse to dead party, he is not incompetent. In other words, one of the Slomp devisees would be competent to testify that Bass Slomp was insane at the time he made deed. By the same reasoning, the testimony of one of the heirs against his interest (as in this case) would not make devisees competent. In fact, the statute says "unless some person having an interest in or under such contract, or transaction, derived from the party so incapable of testifying, has testified in behalf of the latter or of himself as to such contract or transaction."

As to the first point, Bass Slomp's statement about his will has nothing to do with the deeds. In other words, this witness did not testify about "the contract or transaction" under consideration in the deed case.

In Taylor vs. McDonald, the Court, referring to the deposition of Mrs. Taylor, said, "Again the witness was introduced

generally and was unquestionably competent to speak as to many matters appearing in her testimony, and the objection to her competency being general, it cannot be sustained." In other words, all she could not speak about, would have been the "contract or transaction" which was the subject of the investigation."

~~Sixty-fifth~~

So in Hall vs. Rixey, 84 Va. 790, it was held that in a suit by assignee against assignor, on recourse, the subject of the investigation is the assignment and not the contract between deceased assignor and the assignee's attorney, wherein the former directed the latter not to sue on the assigned claim, and the attorney is competent to testify as to such communication."

In other words, the attorney was not a party to the transaction which was the subject of investigation, and, therefore, he was not competent, so ~~therefore~~ therefore as Robt. E. L. Slomp testified about a communication about the will, and not about the deeds, he did not testify about the "contract or transaction &c." and, therefore, his evidence does not let in the evidence of devisees.

In fact the testimony of R. L. Slomp is not admissible in the deed case.

4: Are we bound to introduce Robt. L. Slomp's deposition and if we do not can they claim he has testified in the case?

Sec. 5367 of Code that a "Deposition if not read on trial by party taking it may be read by the other party."

And if the record does not show that depositions were read, they will not be considered as part of the record by the Court of Appeals. 1 Michie 513 and cases cited.

Some cases hold that a party taking depositions may withdraw same and some hold he cannot. 13 Cyc. 971.

In some states held that a party may read only part of deposition and other states, held, he must read whole if any. 13 Cyc. 983. And he may read deposition or part of it taken by adversary, but he makes it his testimony. 13 Cyc. 984.

In Virginia, it is held that "one party may read portions of a deposition taken by the other party, leaving the latter, if he chooses, to read the residue, provided it is competent testimony. 2 Bar. Chy. 2 Ed. 803, citing Calhoun vs. Hayes 82 Va. 832. (This case does not support the text--Says nothing on point.) 16 Cyc. 411.

"All evidence to be available, must be offered at the hearing and the Court cannot subsequently inject evidence into the record which was not produced". Citing Lake Shore &c. R. Co. vs. McMillan, 84 Ill. 208.

In Hardin's Admr. vs. Taylor, 78 Ky. 595, which was a suit in chancery, the appellee Taylor gave his deposition on April 3rd, 1878. Hardin died on April 13th. The case was revived against Administrator and on the trial he objected to Taylor's deposition on the ground that Hardin, though living at the time deposition was taken, was dead when deposition was offered in evidence, and that it was therefore incompetent. The Ky. statute provided, "no person shall testify for himself concerning any verbal statement of, or any transaction with, or any act done or omitted to be done by, one who is dead, when the testimony is offered to be given." &c.

The Court said "It is insisted by counsel for appellee that under these provisions of the code the ruling of the Court in admitting this evidence is sustainable upon either one of two grounds: First. That the adverse party with whom the trans-

action was had was living at the time the deposition was taken. Second. That the representative of the decedent testified against appellee.

When it is considered that these provisions of the code apply to oral testimony as well as to evidence in the more permanent form of depositions, and when it is considered that the evident design of this section of the code was to place the parties to an action, or those interested therein, on equal footing when their rights are being passed upon by the Court, it seems clear that the expression, "when the testimony is offered to be given", has reference to the time when the evidence is tendered to the Court or Jury on the trial of the action, and not to the time when the deposition is taken. If that is not the construction, and the one insisted upon by counsel for appellee ~~is~~ be adopted we are compelled to give the words "offered to be given" one meaning when the evidence is by deposition, and another when it is oral, for there is no time at which oral evidence can be said to be offered until the witness is brought face to face with the Court or Jury on the trial of the case."

Our statute uses the words "has testified" in behalf of himself &c. instead of the "when the testimony is offered to be given." If the taking of a deposition is not the giving of testimony, as decided in the Kentucky case, then clearly one has not testified until the deposition is read on the trial.

The consideration object of the statute moreover makes our contention plain. The object was to permit a living man from telling any kind of a story against a dead, without fear of contradiction. But if parties adversely interested, and who presumably may know as much about the transaction as the dead man, come in and testify, then it would be manifestly unfair to not let the other party testify; but before the latter is hurt by the

testimony of the other party, it must be actually given in the case—he is no more hurt by a deposition taken but not read in evidence than he would be if the deposition had never been taken.

Moreover, the statute is a change of the Common law and must be construed strictly.

Again Sec? 3349 shows that our construction of the statute is right. It provides: "If an original party to such contract or transaction, with whom it was personally and solely made or had, or his agent, be examined as a witness orally or in writing, at a time when he is competent to testify, and he afterwards die, or become otherwise legally incapable of testifying his testimony may be proved or read in evidence, and in such case the adverse party may testify as to the same matters."

Now, the representatives of the dead man, under this section are not bound to read his deposition; and if they do not, the other party clearly cannot testify. He is not hurt until nor unless the deposition is actually read in evidence.

As to delivery of Deed.

"Where a deed was executed and acknowledged, ready for delivery, but was not delivered by anything then said or done, was laid away in decedent's chest, among his private papers, although the grantees in said deed may have carried the keys and had access to said chest, some act or word, indicating the grantor's intention to deliver said deed to them was necessary to constitute a delivery of the same, and make it effectual as a conveyance of the property therein described to the grantees; Gaines vs. Keener 43 W. Va. 56, 35 S. E. 856. IV Michie, 404.

"A deed was executed and acknowledged, ready for delivery, but was not delivered, but was laid away by the grantor where he kept his papers, together with his will, executed at the

same time. After the grantor's death the supposed deed and will were found among his papers. Such paper was held not to be a deed because of want of delivery." Lang vs. Smith 37 W. Va. 725, 17 S. E. 213.

"Deed takes effect only from delivery.

"A deed takes effect only from delivery. Lang vs. Smith 37 W. Va. 725, 17 S. E. 213; Hutchinson v. Rust, 2 Gratt 394; Harman v. Oberdorfer, 33 Gratt. 497.

"Time of making delivery.

The delivery must be within the lifetime of the grant or, and yet there may be an inchoate delivery in the grantor's life time which will become absolute on his death. Frank vs. Frank, 100 Va. 629, 42 S. E. 666; Collup v. Smith 89 Va. 264, 15 S. E. 584, Lang vs. Smith 37 W. Va. 725, 17 S. E. 213.

But if the grant or parts with all dominion over it and makes an absolute and unconditional delivery thereof to a third person, with direction to the latter to deliver it to the obligee on the death of the obligor, the delivery is good. In the case in judgment there was no condition ⁱimposed upon complete delivery except that the bonds were to be delivered to the obligees after the obligor's death. Frank vs. Frank, 100 W. Va. 627, 42 S. E. 666, See Post "To hold until Grantor's death", 111 D. 4 d. (5) (b).

"The testimony of a person who executed the deed was received as fixing the time when it was executed, notwithstanding the testimony of two witnesses to his acknowledgement to the contrary when not on oath; he being entirely disinterested between the parties, and the falsehood of his evidence being not probable under the circumstances of the case. Colquhoun v. Alkinsons 6 Munf. 550.

"To constitute a delivery of a deed, the grantor must by act or word, or both with all right of possession and dominion over the instrument with the intent that it shall take effect as his deed. *Gaines vs. Keener*, 48 W. Va. 56, 35 S. E. 856, *American Buttonhole etc., Co. v. Burlack*, 35 W. Va. 647, 13 S. E. 320; *Davis vs. Ellis* 39 W. Va. 226, 19 S. E. 399. "

See IV. *Michie*, pages 403, 404.

"The grantor in a deed placed it in the hands of a third person, to be delivered at an indefinite time to the grantees. Before the delivery the deed was returned to the grantor who destroyed it. It was held that the presumption of law was against the delivery of the deed, and in favor of the grantor's right to destroy it, and such presumption could not be overcome unless the grantee showed by preponderance of affirmative evidence that the grantor, at the time he placed such deed in the hands of such third person, intended absolutely to part with the control and dominion over the same. *Davis vs. Ellis*, 39 W. Va. 226, 19 S. E. 399." See IV, *Michie*, page 405.

"But so long as a deed is within the control, and subject to the dominion and authority of the grantor, there is no delivery, without which there can be no deed. *Lang vs. Smith*, 37 W. Va. 725, 17 S. E. 215, *Davis vs. Ellis*, 39 W. Va. 226, 19 S. E. 399." (See IV *Michie*, page 404.)

In *Hutchinson vs. Rust*, 2 Gratt. 39, the deed had been signed and acknowledged, but kept in possession of grantor until after his death. The only question argued by counsel was whether there had been a delivery. The Court held the deed was void.

The last Virginia case seems to be *Frank vs. Frank*, 100 Va. 629, which holds that delivery is indispensable and "The delivery must be in the lifetime of the grantor, but there may be an inchoate delivery in the grantor's lifetime which will become

absolute at his death.

"It is a general rule, subject to certain exception herein given that a delivery of a deed to be valid must be such as deprives the grantor of the possession and of the control of the instrument. It has, however, been held that where a deed was intended to be considered as delivered, it will not, as between the grantor and the grantee, be invalid for want of delivery, because of the fact that it remains in the grantor's possession. Likewise, there may be a sufficient delivery, where the grantor by his acts or words, expresses an intention to deliver the instrument and there is nothing to qualify the delivery." See 13 Cyc. 562, 563.

"This rule has been applied, where a deed intended as a testamentary disposition of his property was retained in the grantor's possession (*Patterson v. Snell*, 67 Me. 589; *Stilwell v. Hubbard*, 20 Wend. (N.Y.) 44); where it was found in the same envelope with the grantor's will (*Miller v. Murfield*, 79 Iowa 64, 44 N. W. 540); where it was placed in a trunk to which the grantor had access (*Chadwick v. Webber*, 3 Me. 141, 14 Am. Dec. 222; *Hall v. Barnett*, 71 Miss. 37, 14 So. 732; *Duraud's Appeal* 116 Pa. St. 93, 8 Atl. 922); where it was deposited in a box with other papers of the grantor in a bank (*Wells v. Ritter* 180 Ill. 616, 54 N. E. 565; *Davis vs. Williams*, 57 Miss. 843) where it was put in a sealed envelope and deposited in a bank by the grantor in his name (*Stout v. Stout*, 28 Ind. App. 502, 63 N. E. 250); and where it was placed in a drawer in which other papers of the grantor together with the will, were kept (*Lang v. Smith* 37 W. Va. 725, 17 S. E. 213." (See Note "Illustrations," 13 Cyc. page 562, 563.)

"A deed executed by the grantor with the intention of having it take effect after his death, but which he retains in his possession or control, will be ineffectual to pass title for

for want of delivery. (See 13 Cyc. page 569.)

"Where the deposition of one party has been taken, and afterwards, but before trial, the other party dies without his deposition having been ~~read~~ taken, the question arises whether the deposition so taken may be read. This question has been presented several times and the cases are unanimous in holding the negative, because it is considered that a deponent testifies at the time his deposition is read, and not at the time it was taken."

30 A & E. 985

Citing

Smith vs. Billings 177 Ill. 446
Lusk vs. Brooks 29 Iowa 484
Newlett vs. George 68 Miss 707
Messimer vs. Wm. Cary 113 Mo 985

See also 30 A & E 1060 & Notes 3
44 - They leave slight bearing on
question

"It is essential that the testator shall have sufficient capacity to comprehend perfectly the condition of his property, his relations to the persons who were, or should, or might have been, the objects of his bounty, and the scope or bearing of his will. He must have sufficient active memory to collect in his mind without prompting, the particulars or elements of the business to be transacted, and to hold them in his mind a sufficient length of time to preserve their obvious relations to each other, and to be able to form some rational judgment concerning them." *Windschitell* 7 112

"For it is a well settled rule, sustained by numerous cases, that it does not require the same degree of mental capacity to make a will as it does to make a contract. In other words, a man may make a will who no longer has mental ability to make a contract."

ib 7 116

A lucid interval must be clearly distinguished from an intermission, or, as it is technically termed a remission of the mental disease.

1.
which consists merely in an abatement or disappearance of the symptoms without any real temporary or permanent restoration to health etc 131.

// No lucid interval in senile dementia etc 132

Burdens on proponent to prove lucid interval 133

John Slump

- 1 Never saw anything wrong until 2 or 3 mos. before he died 33.
- 2 He was alright when wife was operated on in 34, 45
- 3 Heard of deers and will in a day or two p 34 Don't don't remember who told him.
- 4 Gave him deer in abt 2nd weeks 46 and he gave me deer - I kept it - 10 days but had no table or drawers & so took it back and told him to lock it up. That was the last I saw of it till after he died p 34
- 5 Took it back because he had no place to take care of it.

to was 6x

Never knew him to be physically - 39.
Did not know he was going to make deers. 39.

Even in the 3 mos before he died did not notice anything wrong with mind. 42

Did not put it to record because it was 3 deers and could not tear it to pieces 47 And not lawful to put them to record 47

Never ^{as told Dave} ^{recalled when he told} told Dave he had died 47 Don't recall even talking to Dave about it. 48
It was not my plan to tell Dave 42

Dont remember talking to Valerie
slump about it p 48, 49

Had trunk but rats ate papers. 49
Kept dead to house place in pitche
but was afraid boys wd. throw
it about — live close to rail road
— afraid wd. be stolen 49

David Slump

Bass sent for him a day or
two after deeds made and told
him about deeds & will — to
whom he had deeded property and
how he had willed it — p 55

He told Mrs. S. to read
deed. — she did so. I handed it
back to her and told her to
keep it — 56

He handed me deed and
asked me to take care of it.
But I have no place and told
Mrs. S. to take care of it — 56

Next saw deal right before
he died. They were read over to
us. p 56

Did not see anything wrong
with Bass until election before he
died 58, 59, 60.

Bass Ex

Bass was unconscious the night before he died - the night they read the deeds p 62

~~Did not talk~~

Bass never said anything more about deed after first conversation 63

They have never talked to John abt it - 63

Never talked to anybody abt it - 63.

Never talked to Valerie

Bass said he did not want anything said about it - 63

Alfred Slump

Don't have been there often 76

Did not know about deeds until in April. Happened there and he told me about deeds and wanted me to take charge of them. Did not know want anybody to know 65

I told him I wd. take them if he wd. furnish me a place to keep them. He sd. he wd. When he gave them to me I carried them in pocket 2 or 3 weeks 65

I carried them 3 or 4 weeks in pocket. Even Bass was afraid

they would wear out. He said
I furnish drawer. & I took
Ray p 66

He asked me if I had
told anybody. I said no. 66

~~He never noticed anything wrong
except he~~

Saw him Sunday & Monday be-
fore will made

Went to Young's house - he
not at home - got him to
Hyden & told him p 68

Saw Boss saw Sunday before
he was made will. Well all
right - except tell me story 69

Never noticed anything wrong
with him until a week or a
month before he died. p 70

He kept Ray to drawer. p 70

He first says he put wrapped
deeds in newspaper. On 7 p 71
says were in envelope Goodson
game him 71

Stayed with Boss. 20 d
before he died 72

Boss says

Boss did not tell me
what he wanted Young for 75

Never talked to any body
about the deeds & until the
mail p 77

Lots of fellows tried to talk to
him abt the deeds but he
told them he knew nothing &
81 84

"He talked all right - a day or
two before he died" 83
Gave him dues & will p 85-

Tabe was in East Room
& me in North West Room. When
any body wd come at night. He
wd pick up table and put it
in room where I slept" p 85-

R. T. Irvine.

No consequence as to what-
ever state of mind afterwards

C. M. Slomp
P. A. Lawton
J. K. Barron
W. J. Ward
Will Coomer
Dr. Edmonds
H. C. J. Reason
B. C. Jones
C. D. Bailey
Valerie Davis

Says only witnesses we bring
between periods is

That
Chad Slomp, P. A. Lawton, Coomer
Edmund Flanery

Relies largely on Boldman,
J. J. Reason

Chad Slomp

Says was in bed with his
clothes off

Says he sd. Gilmer had been there

Get 2 Gratton 394

On Delivery

2 Minn 732-3

"I deliver this as my act & deed"

A presumption of delivery arises
from recordation

Acknowledgement as presumption

9 A & E p 153.

Delivery is a word or act where
grantor expresses present intention
to deliver

Young says she said give them to
Alf"

{ Read what Clarkston said on cross -
Ex on delivery
It is in opposite room in hall

{ As to somebody remarking
deed is at my house

"In the room across the hall"

carried to room where Alf slouch
slept - See p 85

2 G. 440 Bollock vs. Glanville

2 G. 394 Rusk.

{ A deed hangs a question of delivery
depends on intention

Competency at the time of giving
evidence

In 75 Va held that deposition
taken at time witness

k PL + Br. 572.

If competent at time
he is not incompetent after -
wards

claims that they are com-
petent anyway

It must be adverse to the
interest of the dead man.

In the name of God Amen I Sebastian S. Slemp do make this my last Will and Testament in manner and form following

First I Will and bequeath to my wife all of my money notes and personal property, including all household & kitchen furniture

2nd I hereby revoke all other wills by me made given under my hand this 21st day of Nov 1905

S S Slemp

Signed published and acknowledged by S. S. Slemp as and for his last will in the presence of us who in his presence of each other have hereunto subscribed our names as witnesses.

Harvey Young

F. M. Clarkston

Virginia,

In the Clerk's office of the Circuit Court for Lee County, on this the 24th day of November, 1906.

The last will and testament of S. S. Slemp, deceased, was this day produced in the Clerk's office, and said will was proved by the oath of F. M. Clarkston, one of the subscribing witnesses thereto, who also proved the execution of said will by the testator, in his presence and in the presence of Harvey Young, the other subscribing witness to said will, they all three being there present together at the time of the signing of said will, and that they signed the same as attesting witnesses ~~witnesses~~ at the request of the testator, and that the testator was of sound mind and disposing memory at the time of said signing. It is therefore ordered that said will be recorded as the true last will and testament of S. S. Slemp, deceased.

Teste: H. C. T. Ewing, Clerk.

A copy,

Teste: H. C. T. Ewing, Clerk.

A copy,

Teste: H. C. T. Ewing, Clerk.

A copy,

Teste: *H. C. T. Ewing*, Clerk.

Will of S.S. Slomp.

copy

"Exhibit A." with
the bill in the case
of S Melvina Wampler
et al. vs. F. I. Riddle et al.

Clark 408

92 A

This deed made this 21st day of November in the year 1905 between S. S. Slemp of the county of Lee & State of Virginia party of the first part and Alfred Slemp and T. H. Slemp of the county and state aforesaid parties of the second part Witnesseth that for and in consideration of the premises as well as the love and affection that the said S. S. Slemp have for his two brothers Alfred & Hop Slemp the party of the first part do grant and convey unto the said Alfred Slemp & Hop Slemp a certain tract or tracts of land lying in the county of Lee and state aforesaid and being a part of what was once known as the John W. Slemp tract and being three shares of said tract one that the said S. S. Slemp purchased from Patton Slemp and two that the said S. S. Slemp bought of C. E. Flanary see deeds for same the said Shares to be divided as follows Alfred Slemp to have his part next to and adjoining his land that he now owns and Hop to have the land on the other side and they are to have an equal share each of the said three shares containing in all one hundred (180) acres The said S. S. Slemp reserves the right to hold possession of all the shares of said land during his natural life And the said S. S. Slemp covenants with the said parties of the second part that he will will warrant the land Generally hereby conveyed day and year first written

Witness the following signature and seal

S S Slemp (Seal)

Virginia Lee County to wit

I F M Clarkston a justice of the peace in and for the county and state aforesaid do certify that S S Slemp whose name is signed to the writing above and bearing date on this 21st day of November 1905 has this day personally appeared before me in my county aforesaid and acknowledged the same to be his act and deed this Nov 21st 1905

F. M. Clarkston J. P.

Virginia, Lee County, to-wit:

In the Clerk's office of Lee County, on this the 23rd day of November, 1906. This deed was presented, and together with the certificate annexed, admitted to record.

Teste: H. C. T. Ewing, Clerk.

By M. E. Flanary, D. C.

A copy, Teste: *H. C. T. Ewing*, Clerk.

Alfred & J. H. Slomp
From / Deed
S. S. Slomp.

copy

"Exhibit A" with the
Bill in the suit of ~~Slomp~~
~~Cooper~~, et al, vs. J. H.
Slomp et al.

Clark, \$0.40

Rep. to Sec.

This deed made this 21st day of November in the year 1905 between S. S. Slemp party of the first part and Velerie Slemp wife of the said S. S. Slemp and brother John Slemp and brother David Slemp parties of the second part

Witnesseth That for and in consideration of the premises and the love and affection that the said S. S. Slemp has for the parties of the second part doth grant unto Velerie Slemp all of the home tract during her life time containing One hundred & seventeen acres and the said Velerie Slemp is to have thirty three acres of this home tract in fee to be laid off out of average of said land and David Slemp I do grant and convey Sixty acres to be laid off out of the home tract and to John Slemp I do grant and convey the remainder of the home tract to gether with a nine acre tract the said S. S. Slemp reserves the right to hold possession of all the said lands during his natural life the same as he has heretofore And the party of the first part covenant with the parties of the second part that he will warrant the land Generally hereby conveyed witness the following signature and seal day and year first written

S. S. Slemp (Seal)

Virginia Lee County to wit

I F M Clarkston a justice of the peace in and for the county and state do certify that S. S. Slemp whose name is signed to the writing above and bearing date on this 21st day of November has this day personally appeared before me in my county aforesaid and acknowledged the same to be his act and deed this 21st day of nov 1905.

F. M. Clarkston J. P.

Virginia, Lee County, to-wit:

In the Clerk's office of Lee County, on this the 23rd day of November, 1906. This deed was presented, and together with the certificate annexed, admitted to record.

Teste: H. C. T. Ewing, Clerk.
By M. E. Flanary, D. C.

A copy, Teste: H. C. T. Ewing, Clerk.
(D.B. No. 45, page 89 re.)

Verie Slomp, et al.
From } Deed
S.S. Slomp

copy

"Exhibit A" with the
Bill in the suit of
"J. M. Stamplex et al
vs. Alfred Slomp et al."

Clark 40P

In the name of God Amen. I V. E, Slemph of Turkey Cove Lee County Virginia, Do make this my last will and Testament, as follows (to wit.)

First I give and bequeath unto V. A. Coomer for her services for waiting on me and my husband S. S. Slemph in his life time one pale red cow and one bed & bed stid and all nossary bed clothes pillows & Co. and one looking glass and 4 chairs and one set of plates and one set of Teacups & sausers, and one set of knives & forks, and 10 gallons of Earthenware, and \$75.00 seventy five dollars in money.

Second I give to my sister Jane C. Riddle my 33 acres of land to use During her life time and controle, and at her Death I want my brother F. T. Riddle to have the said land, Providded he will Pay the other heirs Equeally for their Parts in said land at the Price of \$50.00 Fifty dollars Per Acre which amount is to be paid at the Death of my sister Jane C, Riddle, without interest.

Third I give and bequeath unto my brothers & sisters all of my Personal property, notes and bonds and Co. namely, J. C. Riddle, F. T. Riddle and V. E. Riddle J. B. F. Riddle, J. W. B. Riddle and M. C. Howard.

Fourth I except out of my Estate sufficient money to pay my Doctor Bills and funeral expences and I also except \$90.00 ninty dollars for to pay for my husbands Tomb Stones and a set for my self

Fifth I except out of Crit Carters Part \$45.00 Forty five dollars to pay for Tombstones for Marey Carters, and James F, Carters Tombstones.

Sixth I appoint Alfred Slemph executor of this my last will and and Desire that no security be required of him I want him to collect all debts and Bonds & Co. and pay the same to the proper parties.

Seventh I hereby revoke all previous wills and codicils hitherto made by me witness my hand, this the 28th day of January 1907

her
Valearu x Slemph
mark

V. E. Slemph

Signed, Published and acknowledged by Valeare E, Slemph as and for her last will, in the Presants of us, who, in her presence and in

the Presence of each other, have hereto subscribed our names as

witnesses
Witnesses
F. M. Clarkston,

Sam C. Slemp.

Virginia,

In the Clerk's office of the Circuit Court of Lee County, on this the 31st day of January, 1907.

The last will and testament of V. E. Slemp, deceased, was this day produced in the Clerk's office, and said will was proved by the oath of F. M. Clarkston, one of the subscribing witnesses thereto, who also proved the execution of said will by the testatrix, in his presence and in the presence of Sam C, Slemp, the other subscribing witness to said will, they all three being there present together at the time of the signing of said will, and that they signed the same as attesting witnesses at the request of the testatrix, and that the testatrix was of sound mind and disposing memory at the time of the said signing. It is therefore ordered that said will be recorded as the true last will and testament of V. E. Slemp.

And Alfred Slemp, the executor named in said will, personally appeared before me, in the Clerk's office on this day and was sworn to faithfully discharge the duties of said trust, and entered into a bond in the penalty of \$4000.00, conditioned according to law, and said bond, being acknowledged by the obligor therein, is ordered to be recorded.

It is further ordered that L. M. Wade, F. M. Clarkston, James Skeen, Trav. Olinger and Joseph Shuler do well and truly appraise such of the personal estate of V. E. Slemp, deceased, as may be produced to them and return their appraisement under their hands as the law directs.

Teste: H. C. T. Ewing, Clerk.

A copy, Teste: H. C. T. Ewing, Clerk.

A copy,

Teste: *H. C. T. Ewing* Clerk.
(Will Book No. 5, page 140 &c.)

Last Will of
V. E. Slump,
deceased.

Copy

Filed as "Exhibit B" with
The Will in the case of
O. M. Wampler, et al, vs.
Alfred Slump, et al.

Clerk 80¢

TO H.C.T. LING, CLERK OF THE CIRCUIT COURT OF LEE COUNTY, VIRGINIA:

I am one of the defendants in the case of S. M.
Wampler, et al, vs. Alfred Blomp, et al.

I hereby authorize, empower and request you to enter
my appearance to the original and amended bill filed in the said
cause.

Yours truly,

Witness:

Gora & Patterson

Filed June 18, 1908.

H. C. D. Ewing,
Clerk.

TO H.C.T. EWING, CLERK OF THE CIRCUIT COURT OF LEE COUNTY, VIRGINIA:

I am one of the defendants in the case of E. W.
Wampler, et al, vs. Alfred Slomp, et al.

I hereby authorize, empower and request you to enter
my appearance to the original and amended bill filed in the said
cause. *June 1958*

Yours truly,

Witness:

E. P. Perryman
B. O. King
Flora B. McMoniz

Filed June 22 1908.

H. C. D. Ewing,

Att. Gen.

TO H.C.T. EWING, CLERK OF THE CIRCUIT COURT OF LEE COUNTY, VIRGINIA:

I am one of the defendants in the case of S. M.
Wampler, et al, vs. Alfred Slomp, et al.

I hereby authorize, empower and request you to enter
my appearance to the original and amended bill filed in the said
cause. *June 1908*

Yours truly,

ate. Reese

Witness:

J. R. Jordan

TO H.C.T. EWING, CLERK OF THE CIRCUIT COURT OF LEM COUNTY, VIRGINIA:

I am one of the defendants in the case of S. M.
Wampler, et al, vs. Alfred Slomp, et al.

I hereby authorize, empower and request you to enter
my appearance to the original and amended bill filed in the said
cause. *June 1908*

Yours truly,

Witness:

John. J. Reece.

Filed June 18, 1908.

A. C. T. Cuming,

Clerk.

TO H.C.T. EWING, CLERK OF THE CIRCUIT COURT OF LEE COUNTY, VIRGINIA:

I am one of the defendants in the case of S. M.
Wampler, et al, vs. Alfred Slomp, et al.

I hereby authorize, empower and request you to enter
my appearance to the original and amended bill filed in the said
cause. *June 1908*

Yours truly,

Arthur R. Rouse

Witness:

B. F. Dalton

J. F. BULLITT, BIG STONE GAP, VA.
JOS. L. KELLY, BRISTOL, VA.

ASSOCIATES:
JNO. W. CHALKLEY, BIG STONE GAP, VA.
PAUL DULANEY, BRISTOL, VA.

BULLITT & KELLY,

ATTORNEYS AT LAW.

OFFICES BIG STONE GAP AND BRISTOL, VA.

S. M. Wampler, et al, vs. T. H. Slemp, et al.

Big Stone Gap, Va., August 21, 1907.

Mr. H. C. T. Ewing, Clerk,
Jonesville, Va.

Dear Sir:

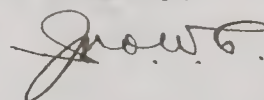
We enclose herewith Bill in Equity, Memo. for Clerk, and Order of Publication in the suit of S. M. Wampler, et al, vs. Alfred Slemp, et al; and Bill in Equity, and Memo. for Clerk in the suit of Florence Coomer, et al, vs. T. H. Slemp, et al.

Mrs. S. M. Wampler will hand you Lis Pendens in the two cases, and, also, affidavit as to non-residence of the defendant Maliss a Howard in the case of S. M. Wampler, et al, vs. Alfred Slemp, et al.

Please be sure and send us process by return mail for the Barkers, so that we may get same served in time.

Yours truly,

Bullitt & Kelly,



Lis pendens

CIRCUIT COURT OF LEE COUNTY, VIRGINIA.

S. M. Wampler, Florence Coomer and T. H. Coomer, her husband, Margaret Cox and W. S. Cox, her husband, J. F. Slemp, Eurie L. Brumit and John W. Brumit, her husband, Martha Barker and J. G. Barker, her husband, L. J. Slemp, R. E. L. Slemp, Rebecca N. Reese, Alpha N. Reese, Lou M. Reese, and Alice Reese Hall, by S. M. Wampler, their next friend,

Complainants.

vs.

Alfred Slemp, T. H. Slemp, David Slemp, John Slemp, Susan Barker and John B. Barker, her husband, Cora Patterson, Flora C. Courn, John J. Reese, Ate Reese, Arthur Reese, Lafayette Slemp, F. T. Riddle, John C. Riddle, J. W. B. Riddle, J. B. F. Riddle and Malissa Howard,

Defendants.

KNOW ALL MEN BY THESE PRESENTS that I, S. M. Wampler, one of the plaintiffs in the hereinafter styled cause, do give notice of lis pendens by this memorandum which sets forth as follows:

There is now pending in the Circuit Court of Lee County a certain cause, the title of which is "S. M. Wampler, Florence Coomer and T. D. Coomer, her husband, Martha Barker and J. G. Barker, her husband, J. F. Slemp, Eurie L. Brumit and John W. Brumit, her husband, Margaret Cox and W. S. Cox, her husband, L. J. Slemp, R. E. L. Slemp, and Rebecca N. Reese, Alpha N. Reese, Lou M. Reese and Alice Reese Hall, by S. M. Wampler, thier next friend, vs. Alfred Slemp, T. H. Slemp, David Slemp, John Slemp, Susan Barker and John B. Barker, her husband, Cora Patterson, Flora C. Courn, John J. Reese, Ate Reese, Arthur Reese, Lafayette Slemp, F. T. Riddle, Jane C. Riddle, J. W. B. Riddle, J. B. F. Riddle and Malissa Howard;

The general object thereof is to set aside as fraudulent

and void a certain deed made by S. S. Slemp to Velerie Slemp, John Slemp and David Slemp, dated the 21st day of November, 1905, and recorded in the Clerk's Office of Lee County, in Deed Book 45, page 89, and to partition the said land therein mentioned between the lawful heirs of the said S. S. Slemp, or, if partition cannot be made without impairing the value thereof, to sell the same and divide the proceeds as required by law among the heirs of the said S. S. Slemp, respectively; the said property is known as the Sebastian S. Slemp Home Tract, and reference is here made to the said deed for description.

And the names of the persons whose estate is intended to be affected thereby are Alfred Slemp, T. H. Slemp, David Slemp, John Slemp; Susan Barker and John B. Barker, her husband, Cara Patterson, Flora C. Courn, John J. Reese, Ate Reese, Arthur Reese, Lafayette Slemp, F. T. Riddle, Jane C. Riddle, J. W. B. Riddle, J. B. F. Riddle and Malissa Howard.

WITNESS my hand this 24th day of August, 1907.

STATE OF VIRGINIA: County of Lee, to-wit:

I, A. C. Brown, a Notary Public, in and for the County and State aforesaid, do hereby certify that S. M. Wampler, whose name is signed to the writing above, bearing date on the 24th day of August, 1907, has acknowledged the same before me in my County aforesaid.

My term of Office expires on the 8 day of May, 1919.

Given under my hand this 24th day of August, 1907.

A. C. Brown
Notary Public.

Bullitt & Kelly,

Jno. W. Chalkley, p. q.

Virginia, Lee County, To-wit:

In the Clerk's office of Lee County, on this the 24th day of August, 1907, the foregoing lis pendens was presented, and together with the certificate annexed, admitted to record.

Teste: J. C. Fleming, Clerk.
By M. C. Haubry, D.C.

A. M. Stamples et al

} Lis Pendens,

Alfred Stamples et al.
8/24/07

Recorded in Dec 2
Book 46, Page 167
Examined Aug. 28, 1917
Indexed

Lis Pendens

CIRCUIT COURT OF LEECOUNTY, VIRGINIA.

Florence Coomer and T. D. Coomer, her husband, S. M. Wampler,
Margaret Cox and W. S. Cox, her husband, J. F. Slemp, Eurie L.
Brumit and John W. Brumit, her husband, Martha Barker and John
G. Barker, her husband, L. J. Slemp and R. E. L. Slemp, and Rebecca
N. Reese, Alpha N. Reese, Lou M. Reese and Alice Reese Hall, by
S. M. Wampler, their next friend,

Complainants,

vs.

T. H. Slemp, Alfred Slemp, John Slemp, David Slemp, Susan Barker
and John Barker, her husband, Cora Patterson, Flora C. Courn,
John J. Reese, Ate Reese, Arthur Reese and Lafayette Slemp,

Defendants.

KNOW ALL MEN BY THESE PRESENTS that I, S. M. Wampler,
one of the plaintiffs in the hereinafter styled cause, do give
notice of Lis Pendens by this memorandum which sets forth as follows:

There is now pending in the Circuit Court of Lee County
a certain cause, the title of which is "Florence Coomer and T. D.
Coomer, her husband, S. M. Wampler, Margaret Cox and W. S. Cox,
her husband, J. F. Slemp, Eurie L. Brumit and John W. Brumit, her
husband, Martha Barker and J. G. Barker, her husband, L. J. Slemp
R. E. L. Slemp, and Rebecca N. Reese , Alpha N. Reese, Lou M. Reese
and Alice Reese Hall, by S. M. Wampler, their next friend, vs.
T. H. Slemp, Alfred Slemp, John Slemp, David Slemp, Susan Barker and
John B. Barker, her husband, Cora Patterson, Flora C. Courn, John
J. Reese, Ate Reese , Arthur Reese and Lafayette Slemp"

The general object thereof is to set aside as fraudulent
and void a certain deed made by S. S. Slemp to Alfred Slemp and
T. H. Slemp, dated the 21st day of November, 1905, and recorded in the
Clerk's Office of Lee County, Virginia, in Deed Book 45, page 90,

and to partition the said land therein mentioned between the lawful heirs of the said S. S. Slemp, or, if partition cannot be made without impairing the value thereof, to sell the same and divide the proceeds as required by law among the heirs of the said S. S. Slemp, respectively; reference is here made to the above mentioned deed for description.

And the names of the persons whose estate is intended to be affected ~~by~~ ~~the~~ thereby are T. H. Slemp, Alfred Slemp, John Slemp, David Slemp, Susan Barker and John Barker, her husband, Cora Patterson, Flora C. Courn, John J. Reese, Ate Reese, Arthur Reese and Lafayette Slemp.

Witness my hand this 24th day of August, 1907.

hug
S. M. Wampler
mark

STATE OF VIRGINIA: County of Lee, to-wit:

I, A. C. Brown a Notary Public in and for the County aforesaid in the State of Virginia, do hereby certify that S. M. Wampler, whose name is signed to the writing above, bearing date on the 24th day of August, 1907, has acknowledged the same before me in my County aforesaid.

My term of office expires on the 8th day of May,
19 09.

Given under my hand this 24th day of August, 1907.

A. C. Brown
Notary Public.

Bullitt & Kelly,

Jno. W. Chalkley, p. q.

Virginia, Lee County, To-wit:

In the Clerk's office of Lee County, on this the 24th day of August, 1907, ~~xxxxxx~~ the foregoing lis pendens was presented, and together with the certificate annexed, admitted to record.

Teste: H.C.P. Ewing, Clerk.
By M.E. Hauby, D.C.

Florence Coomes et al

} vs. Lis Pendens

J. H. Semp, et al

8/24/07

Recorded in Deed
Book 46 Page 168
Examined Aug. 28, 1915
Index

Clerk \$1.25

TO H. C. T. ETING, CLARK OF THE CIRCUIT COURT OF LEE COUNTY, VIRGINIA:

I am one of the defendants in the case of Florence Coomer, et al, vs. T. H. Slomp, et al.

I hereby authorize, empower and request you to enter my appearance to the original and amended bill filed in the said cause. *June 1908*

Yours truly,

Arthur Rice

Witness:

B. F. Dalton

TO H. C. T. EWING, CLERK OF THE CIRCUIT COURT OF LEE COUNTY, VIRGINIA:

I am one of the defendants in the case of Florence Coomer, et al, vs. T. H. Slomp, et al.

I hereby authorize, empower and request you to enter my appearance to the original and amended bill filed in the said cause. *June 1908*

Yours truly,

Atte. R. Lee.

Witness:

J. R. Jordan

TO H. C. T. EWING, CLERK OF THE CIRCUIT COURT OF LEE COUNTY, VIRGINIA:

I am one of the defendants in the case of Florence Coomer, et al, vs. T. H. Slomp, et al.

I hereby authorize, empower and request you to enter my appearance to the original and amended bill filed in the said cause. *June 1908*

Yours truly,

Flora Coomer

Witness:

L. P. Perryman

B. O. King

Filed June 22, 1908.

A. C. T. Ewing.

Relist.

TO H. C. T. EWING, CLERK OF THE CIRCUIT COURT OF LEE COUNTY, VIRGINIA:

I am one of the defendants in the case of Florence Coomer, et al, vs. T. H. Slemp, et al.

I hereby authorize, empower and request you to enter my appearance to the original and amended bill filed in the said cause. *June 1908*

Yours truly,

Witness:

John J. Reece.

Filed June 18, 1908.
H. C. T. King
clerk.

TO H. C. T. EWING, CLERK OF THE CIRCUIT COURT OF THE COUNTY, VIRGINIA:

I am one of the Defendants in the case of Florence Coaker, et al, vs. T. H. Slomp, et al.

I hereby authorize, empower and request you to enter my appearance to the original and amended bill filed in the said cause. *June 1908*

Yours truly,

Lora E. Patterson

Witness:

Filed June 18 1908.
H. C. P. Ewing
Clerk.

CIRCUIT COURT OF LEE COUNTY, VIRGINIA.

Florence Coomer and T. D. Coomer, her husband, S. M. Wampler,
Margaret Cox and W. S. Cox, her husband, J. F. Slemp, Eurie
L. Brumit and John W. Brumit, her husband, Martha Barker and J.
G. Barker, her husband, L. J. Slemp, R. E. L. Slemp, and Rebecca
N. Reese, Alpha N. Reese, Lou M. Reese and Alice Reese Hall,
by S. M. Wampler, their next friend,

Complainants.

vs.

T. H. Slemp, David Slemp, Alfred Slemp, John Slemp, Susan Barker
and John B. Barker, her husband, Cora Patterson, Flora C. Courn,
John J. Reese, Ate Reese, Arthur Reese and Lafayette Slemp,

Defendants.

Memo. for Clerk.

Bill in Equity to First September Rules.

Direct process to the Sheriff of Lee County for the
defendants, T. H. Slemp, Alfred Slemp, John Slemp, David Slemp,
Cora Patterson, Flora C. Courn, John J. Reese, Ate Reese, Arthur Reese
and Lafayette Slemp, and to the Sheriff of Washington County for
Susan Barker and John Barker, her husband.

Enclose lis pendens which please record.

Bullitt & Kelly,

Jno. W. Chalkley, p. q.

Florence Coomer et al

} memo for Clerk

J. H. Kemp, et al.

ORDER OF PUBLICATION.

VIRGINIA: IN THE CLERK'S OFFICE OF THE CIRCUIT COURT OF LEE COUNTY,
ON THE 2nd DAY OF JULY, 1908.

Florence Coomer and T. D. Coomer, her husband, S. M. Wampler,
J. F. Slemp, Eurie L. Brummitt and John W. Brummitt, her husband,
Margaret Cox and W. S. Cox, her husband, Martha Barker and J.
G. Barker, her husband, L. J. Slemp, R. E. L. Slemp, and Rebecca
N. Reese, Lou M. Reese and Alice Reese Hall, by S. M. Wampler, their
next friend,

Complainants,

vs.

T. H. Slemp, Alfred Slemp, John Slemp, David Slemp, Susan Barker
and John Barker, her husband, Cora Patterson, Flora C. Courn,
John J. Reese, Ate Reese, Arthur Reese and Lafayette Slemp,

Defendants:

The onject of this suit is to set aside and annull a
certain deed from S. S. Slemp to Alfred Slemp and T. H. Slemp,
dated the 21st day of November, 1905, recorded in Lee County, in
Deed Book 45, page 90, conveying a tract of land containing one
hundred and eighty (180) acres, and to partititon the said tract
of land among the heirs at law of the said S. S. Slemp, or if the
same cannot be divided without impairing the value thereof, to sell
the same and divide the proceeds derived therefrom among the said
heirs according to their respective interests.

And affidavit having been made and filed that the de-
fendants John J. Reese, Ate Reese, Arthur Reese, Cora Patterson
and Flora C. Courn are non residents of this Commonwealth, it is
ordered that they do appear here within fifteen days after due
publication hereof and do what may be necessary to protect their
interests in this suit; and it is ordered that a copy of this order
be forthwith published once a week for four successive weeks
in the Jonesville Star, a weekly newspaper of general circulation,
published in the Town of Jonesville, Lee County, Virginia, and that
a copy be posted at the front door of the Court house of this court
as the law directs.

A Copy Teste:

H. C. J. Ewing
Clerk.

Bullitt & Kelly,
Jno. W. Chalkley, p. q.

Florence Comer et al.

*no { Order of
Publication*

J. N. Sliemp et al.

Virginia, Lee County, to-wit:

I, H. C. T. Ewing, County
Clerk for the County aforesaid,
in the State of Virginia, do
certify that I posted a true cop-
y of the within order of publica-
tion at the front door of the
Court-house of said County, on
this day.

Given under my hand, this the
2nd day of July, ~~1908~~ 1908.

H. C. T. Ewing, Clerk.

The Commonwealth of Virginia,

To the Sheriff of the County of Lee, Greeting:

We command you, That you summon T. H. Slomp, David Slomp, Alfred Slomp, John Slomp, Susan Barker and John B. Barker, her husband, Cora Patterson, Flora C. Courn, John J. Reese, Ate Reese, Arthur Reese and Lafayette Slomp to appear at the Clerk's office of the Circuit Court of the County of Lee, at the rules to be held for the said court, on the 1st Monday in September, 1907, to answer a bill in chancery exhibited against them by Florence Coomer and T. D. Coomer, her husband, S. M. Wampler, Margaret Cox and W. S. Cox, her husband, J. E. Slomp, Eurie L. Brummit and Jno. W. Brummit, her husband, Martha Barker and J. G. Barker, her husband, L. J. Slomp, R. E. L. Slomp, and Rebecca N. Reese, Alpha N. Reese, Lou M. Reese and Alice Reese Hall, by S. M. Wampler, their next friend. And have then there this writ. Witness, H. C. T. Ewing, Clerk of our said Court, at the court-house, the 23rd day of August, 1907, and 132nd year of the Commonwealth.

A Copy,

H. C. T. Ewing, Clerk.

Teste: H. C. T. Ewing, Clerk.

For
Ate Reese
in Texas

The Commonwealth of Virginia,

To the Sheriff of the County of Lee, Greeting:

WE COMMAND YOU, That you summon.....

*J. H. Slomp, David Slomp,
Alfred Slomp, John Slomp, Susan Barker,
and John B. Barker, her husband, Cora Pat-
terson, Flora C. Courm, John J. Reese, late
Reese, Arthur Reese and Lafayette Slomp,*

to appear at the Clerk's office of the Circuit Court of the County of Lee, at rules to be held for the said court,
on the *1st* Monday in *September*, 190*7*, to answer a bill in chancery exhibited against

*them by Florence Womer and F. D. Courm,
her husband, S. M. Hampter, Margaret Cox
and W. S. Cox, her husband, J. H. Slomp, Essie
L. Brummit and Geo. W. Brummit, her
husbands, Martha Barker and J. G. Barker,
her husband, L. J. Slomp, R. E. L. Slomp,
and Rebecca N. Reese, Alpha N. Reese, Lou
M. Reese and Alice Reese Hall, by S. M.
Hampter, their next friend*

And have then there this writ. Witness, H. C. T. EWING, Clerk of our said Court, at the court-house, the *23rd*
day of *August*, 190*7*, and 13*2nd* year of the Commonwealth.

A Copy, Teste:

H. C. T. Ewing, Clerk.

H. C. T. Ewing, Clerk

VS

}

SUBPOENA
IN
CHANCERY.

-----p. q

To-----Rules.

-----Court.

For
John J. Reese
in Texas

The Commonwealth of Virginia,

To the Sheriff of the County of Lee, Greeting:

WE COMMAND YOU, That you summon

*G. H. Slump, David Slump,
Alfred Slump, John Slump, Susan Barker,
and John S. Barker, her husband, Cora
Cathron, Flora C. Burn, John J. Reese, the
Reese Arthur Reese and Lafayette Slump,*

to appear at the Clerk's office of the Circuit Court of the County of Lee, at rules to be held for the said court,
on the *1st* Monday in *September*, 190*7*, to answer a bill in chancery exhibited against

*them, by Florence Comer and J. D. Comer,
her husband, S. M. Hampler, Margaret Cas,
and W. S. Cas, her husband, J. F. Slump,
Curie S. Brummit and John W. Brummit,
her husband, Martha Barker and J.
B. Barker, her husband, L. E. Slump,
Edith Slump, and Rebecca H. Reese, Alpha
H. Reese, Lou M. Reese and Alice Reese
Hall, by S. M. Hampler, their next
friend.*

And have then there this writ. Witness, H. C. T. EWING, Clerk of our said Court, at the court-house, the *23rd* "
day of *August*, 190*7*, and 1*32d* year of the Commonwealth.

A Copy, Teste:

H. C. T. Ewing, Clerk.

H. C. T. Ewing, Clerk

VS { SUBPENA
IN
CHANCERY.

p. q

To Rules.

Court.

For
Flora C. Cousin
in Texas

The Commonwealth of Virginia,

To the Sheriff of the County of Lee, Greeting:

We command you, That you summon T. H. Slomp, David Slomp, Alfred Slomp, John Slomp, Susan Barker and John B. Barker, her husband, Cora Patterson, Flora C. Courn, John J. Reese, Ate Reese, Arthur Reese and Lafayette Slomp to appear at the Clerk's office of the Circuit Court of the County of Lee, at the rules to be held for the said court, on the 1st Monday in September, 1907, to answer a bill in chancery exhibited against them by Florence Coomer and T. D. Coomer, her husband, S. M. Wampler, Margaret Cox and W. S. Cox, her husband, J. F. Slomp, Eurie L. Brummit and Jno. W. Brummit, her husband, Martha Barker and J. G. Barker, her husband, L. J. Slomp, R. E. L. Slomp, and Rebecca N. Reese, Alpha N. Reese, Lou M. Reese and Alice Reese Hall, by S. M. Wampler, their next friend. And have then there this writ. Witness, H. C. T. Ewing, Clerk of our said Court, at the court-house, the 25th day of August, 1907, and 132nd year of the Commonwealth.

A Copy,

H. C. T. Ewing, Clerk.

Teste: H. C. T. Ewing, Clerk.

For
Arthur Reese
in Texas

The Commonwealth of Virginia,

To the Sheriff of the County of Lee, Greeting:

WE COMMAND YOU, That you summon.....

*T. H. Slump, David Slump,
Alfred Slump, John Slump, Susan Barker
and John B. Barker, her husband, Eva
Patterson, Flora C. Slump, John I. Reese, etc.
Reese, Arthur Reese and Lafayette Slump,*

to appear at the Clerk's office of the Circuit Court of the County of Lee, at rules to be held for the said court,
on the *1st* Monday in *September*, 190*7*, to answer a bill in chancery exhibited against

*them by Florence Cooney and T. D. Cooney,
her husband, S. M. Tampler, Margaret Cox
and W. S. Cox, her husband, J. F. Slump,
Curie L. Slummitt and Mrs. W. Baumann,
her husband, Martha Barker and J. G.
Barker, her husband, L. C. Slump, R. E. L.
Slump and Rebecca H. Reese, Alfred H.
Reese, Lou M. Reese and Alice Reese, all
by S. M. Tampler, their next-friend*

And have then there this writ. Witness, H. C. T. EWING, Clerk of our said Court, at the court-house, the *23rd*
day of *August*, 190*7*, and 1*32^d* year of the Commonwealth.

A Copy, Teste:

H. C. T. Ewing, Clerk

_____, Clerk.

Florence Comer, et al

VS

}

SUBPCENA
IN
CHANCERY.

J. H. Slomp, et al,

Bullitt & Kelly
Provs Chalkley, p. q

To 1st Sept.

Rules.

Lee Circuit

Court.

1907
executed by
summon

J. H. Slomp

David Slomp

Alfred Slomp

John Slomp

Lafayette Slomp

this aug 27/1907

J. G. Hughes D L

for W. M. Ball

D L

The Commonwealth of Virginia,

To the Sheriff of the County of Lee, Greeting:

WE COMMAND YOU, That you summon

J. H. Slump, David Slump,
Alfred Slump, John Slump, Susan Barker
and John B. Barker, her husband, Cora Pit-
terson, Flora C. Burn, John J. Reese, etc Reese,
Arthur Reese and Fayette Slump

to appear at the Clerk's office of the Circuit Court of the County of Lee, at rules to be held for the said court,
on the 1st Monday in September, 1907, to answer a bill in chancery exhibited against

Thos. G. Comer and Fred Comer her
husbands, S. M. Wampler, Margaret Reese and
W. S. Cox, her husband, J. G. Slump, Currie
L. Brummitt and Geo. H. Brummitt
her husband, Martha Barker and J. G.
Barker, her husband, L. C. Slump, R. E. L.
Slump and Rebecca T. Reese, W. H. H.
Reese, Geo. M. Reese and Alice Reese
all by S. M. Wampler, their next
friend

And have then there this writ. Witness, H. C. T. EWING, Clerk of our said Court, at the court-house, the 23rd
day of August, 1907, and 1st year of the Commonwealth.

A Copy, Teste:

H. C. T. Ewing, Clerk.

H. C. T. Ewing, Clerk

VS

}

SUBPCENA
IN
CHANCERY.

p. q

To.....Rules.

Court.

For
Cora Patterson
in Texas

The Commonwealth of Virginia,

To the Sheriff of the County of ^{Washington} ~~Lee~~, Greeting:

WE COMMAND YOU, That you summon

*J. H. Slomp, David Slomp,
Alford Slomp, John Slomp, Susan Barker
and John B. Barker, her husband, Cora Pat-
terson, Flora C. Coarn, John J. Reese, Ate
Reese, Arthur Reese, and Lafayette Slomp,*

to appear at the Clerk's office of the Circuit Court of the County of Lee, at rules to be held for the said court,
on the ^{1st} ~~Monday~~ *September*, 1907, to answer a bill in chancery exhibited against

*Them by Florence Comer, and J. D. Comer,
her husband, S. M. Wampler, Margaret Cox and
H. S. Cox, her husband, J. F. Slomp, Curie L.
Brummit and John W. Brummit, her husband,
Martha Barker, and J. G. Barker, her husband,
L. J. Slomp, R. E. L. Slomp, and Rebecca H. Reese,
Alpha H. Reese, Lou M. Reese and Alice Reese
Hall, by S. M. Wampler, Their next friend,*

And have then there this writ. Witness, H. C. T. EWING, Clerk of our said Court, at the court-house, the ²³ ~~21~~"
day of *August*, 1907, and ³² ~~31~~" year of the Commonwealth.

A Copy, Teste:

H. C. T. Ewing, Clerk

_____, Clerk.

Florence Coomes et al

VS

SUBPOENA
IN
CHANCERY.

J. N. Sleep et al

Bullis & Kelley
Attorneys

To First Sep. Rules.
Lee Circuit Court.
1907

Executed Aug 24 1907
by delivering a copy of the within
Sua in chancery to John B. Barker &
Susan Barker, in person
W H Fleenor ds
for J W Hortentine snc

Order of

Volume 1: In the Circuit Court of Lee county, on the 2nd day of July, 1908

FLORENCE COOPER and J. D. Cooper, her husband, S. M. Wampler, J. F. Slemple, Eurie L. Brummitt and John W. Brummitt, her husband, Margaret Cox and W. S. Cox, her husband, Martha Barker and J. G. Barker, her husband, L. J. Slemple, R. E. L. Slemple, and Rebecca N. Reese, Lou M. Reese and Alice Reese Hall, by S. M. Wampler, their next friend. Complainants.

vs

T. H. SLEMP, Alfred Slemple, John Slemple, David Slemple, Susan Barker and John Barker, her husband, Cora Patterson, Flora C. Courn, John J. Reese, Ate Reese, Arthur Reese and Lafayette Slemple, Defendants.

The object of this suit is to set aside and annul a certain deed from S. S. Slemple to Alfred Slemple and T. H. Slemple, dated the 21st day of November, 1905, recorded in Lee county, in deed book 45, page 90, conveying a tract of land containing one hundred and eighty (180) acres, and to partition the said tract of land among the heirs at law of the said S. S. Slemple, or if the same cannot be divided without impairing the value thereof, to sell the same and divide the proceeds derived therefrom among the said heirs according to their respective interests. And affidavit having been made and filed that the defendants, John J. Reese, Ate Reese, Arthur Reese, Cora Patterson and Flora C. Courn are non-residents of this commonwealth, it is ordered that they do appear here within fifteen days after due publication hereof and do what may be necessary to protect their interests in this suit; and it is ordered that a copy of this order be forthwith published once a week for four successive weeks in the Jonesville Star, a weekly newspaper of general circulation, published in the town of Jonesville, Lee county, Virginia, and that a copy be posted at the front door of the courthouse of this county as the law directs.

A copy—Test:

H. C. T. EWING, Clerk.

BULLITT & KELLY, JNO. W. CHALKLEY, p. q.

It is ordered that a copy of this order be forthwith published once a week for four successive weeks in the Jonesville Star, a weekly newspaper of general circulation: published in the town of Jonesville, Lee county, and that a copy be posted at the front door of the courthouse of this county as the law directs.

A copy—Test:

H. C. T. EWING, Clerk.

BULLITT & KELLY & JNO. W. CHALKLEY, p. q.

Florance Comer et al

vs

In Chy

L. H. Slump et al



I, J. C. Boatright, editor

of The Jonesville Star, a weekly newspaper

published in the county of Lee, state of Virginia,

do hereby certify that the enclosed notice was

published in said paper once a week for ~~four~~ ^{one}

~~successive weeks~~, commencing on the 9th

day of July 1908

and publication is continued by
order of Attorneys

J. C. Boatright, Editor.

FEE \$ L. 00

Memo. for Clerk

CIRCUIT COURT OF LEE COUNTY, VIRGINIA.

S. M. Wampler, Florence Coomer and T. D. Coomer,
her husband, Margaret Cox and W. S. Cox, her husband,
J. F. Slemp, Eurie L. Brummit and Jno. W. Brum-
mit, her husband, Martha Barker and J. G. Barker,
her husband, L. J. Slemp, R. E. L. Slemp, and Rebecca N.
Reese, Alpha N. Reese, Lou M. Reese and Alice Reese Hall,
by S. M. Wampler their next friend, Complainants.

vs.

Alfred Slemp, T. H. Slemp, David Slemp, John Slemp,
Susan Barker and John B. Barker, her husband,
Cora Patterson, Flora C. Courn, John J. Reese,
Ate Reese, Arthur Reese, Lafayette Slemp, F. T. Riddle,
Jane C. Riddle, J. W. B. Riddle, J. B. F. Riddle, and
Malissa Howard, Defendants.

Bill in Equity to First September Rules, 1907.

Mrs. S. M. Wampler will hand you affidavit as to non-
residence of Malissa Howard, one of the defendants. Issue order
of publication as to her.

Direct process to the Sheriff of Lee County for the
defendants, John Slemp, Alfred Slemp, T. H. Slemp, David Slemp,
Cora Patterson, Flora C. Courn, John J. Reese, Ate Reese, Arthur
Reese, Lafayette Slemp, F. T. Riddle, Jane C. Riddle, J. W. B. Rid-
dle, J. B. F. Riddle, and process to the Sheriff of Washington County
for Susan Barker and John Barker, her husband.

Enclose Lis Pendens, which please record.

Bullitt & Kelly,

Jno. W. Chalkley, p. q.

D. M. Stamps

v. } Memo for Clerk.

Alfred Stemp, et al.

J. F. BULLITT
BIG STONE GAP, VA.

JOS. L. KELLY
BRISTOL, VA.

ASSOCIATES
JNO. W. CHALKLEY
BIG STONE GAP, VA.
PAUL DULANEY
BRISTOL, VA.

BULLITT AND KELLY
ATTORNEYS AT LAW
BIG STONE GAP AND BRISTOL
VIRGINIA

S. M. Wampler, vs. Slemp, et al.

Big Stone Gap, Virginia, July 1st, 1908.

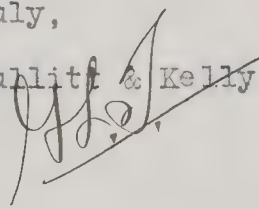
Mr. H. C. T. Ewing, Clerk,
Jonesville, Va.

Dear Sir:

Enclosed please find affidavits and orders of publication in the three Slemp suits, which please sign and hand to the Editor of the Jonesville Star, and have him to publish the same as directed in the order.

Yours truly,

Bullitt & Kelly.



J. F. BULLITT
BIG STONE GAP, VA.

JQS. L. KELLY
BRISTOL, VA.

ASSOCIATES
JNO. W. CHALKLEY
BIG STONE GAP, VA.

PAUL DULANEY
BRISTOL, VA.

BULLITT AND KELLY
ATTORNEYS AT LAW
BIG STONE GAP AND BRISTOL
VIRGINIA.

S. M. Wampler, et al, vs. Alfred Slemp, et al,
Florence Coomer, et al, vs. T. H. Slemp, et al.

Big Stone Gap, Virginia, August 13th, 1908.

Mrs. S. M. Wampler,
Jonesville, Virginia,

Mr. B. F. Wampler,
Olinger, Virginia.

Dear Sir and Madam:

We have given notice to take depositions in your cases
here on Thursday, August 20th, at nine o'clock, a. m.

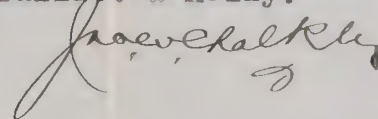
As we understand, the main witnesses are Elkanah Penning-
ton, Joshua Hobbs, J. J. C. Flanary, J. H. F. Barron, Dan Reasor,
Hop Slemp, Tip Reasor, Elbert Bledsoe, Robert Slemp, F. M. Clarkston,
Harvey Young, Drs. J. A. Gilmer and Geo. C. Gilmer, Alma Hyatt,
John Shuler, Chad Slemp, Riley Lawson, Will Coomer, C. M. Wood,
✓ J. A. G. Hyatt and Mrs. Velerie Davis.

The other side has agreed to the taking of the depositions
here on that day, and we hope you will make every effort to get all
of our witnesses here and any others that you know of.

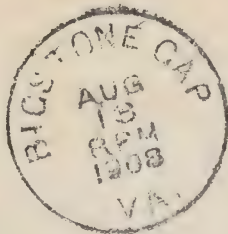
Please let us know in advance what success you have.

Yours truly,

Bullitt & Kelly.



BULLITT & KELLY,
ATTORNEYS AT LAW,
BIG STONE GAP, VA.



Mrs J. M. Hampler,
Jonesville,
Va.
R.F.D.



TO H.C.T. EWING, CLERK OF THE CIRCUIT COURT OF LEE COUNTY, VIRGINIA:

I am one of the defendants in the case of S. Melvina
Wampler, et al, vs. F. T. Riddle, et al.

I hereby authorize, empower and request you to enter
my appearance to the original and amended bill filed in the said
cause. *June 1908*

Yours truly,

Witness:

John J. Reece.

Filed June 18, 1908.
H. C. P. Cuning
Clerk.

TO H.C.T. KWING, CLERK OF THE CIRCUIT COURT OF THE COUNTY, VIRGINIA:

I am one of the defendants in the case of S. Melvina
Wampler, et al, vs. F. T. Riddle, et al.

I hereby authorize, empower and request you to enter
my appearance to the original and amended bill filed in the said
cause.

Yours truly,

Lora E. Patterson

Filed June 18/908.

S. H. D. Ewing.

Clerk

TO H.C.T. EWING, CLERK OF THE CIRCUIT COURT OF LEE COUNTY, VIRGINIA:

I am one of the defendants in the case of S. Melvina
Wampler, et al, vs. F. T. Riddle, et al.

I hereby authorize, empower and request you to enter
my appearance to the original and amended bill filed in the said
cause. *June 1908*

Yours truly,

F. Lora G. McBrown

Witness:

E. H. Perryman

B. O. King

Filed June 22, 1908.

A. C. T. Ewing
Clerk.

TO H.C.T. EWING, CLERK OF THE CIRCUIT COURT OF LEE COUNTY, VIRGINIA:

I am one of the defendants in the case of S. Melvina
Wampler, et al, vs. F. T. Riddle, et al.

I hereby authorize, empower and request you to enter
my appearance to the original and amended bill filed in the said
cause. *June 1908*

Yours truly,

Atty. Reece

Witness:

J. R. Jordan

TO H.C.T. EWING, CLERK OF THE CIRCUIT COURT OF ILLI COUNTY, VIRGINIA:

I am one of the defendants in the case of S. Melvina
Wampler, et al, vs. F. T. Riddle, et al.

I hereby authorize, empower and request you to enter
my appearance to the original and amended bill filed in the said
cause. *June 1908*

Yours truly,

Arthur W. Lee

Witness: *B. E. Baltan*

ORDER OF PUBLICATION:

VIRGINIA: IN THE CLERK'S OFFICE OF THE CIRCUIT COURT OF LEE COUNTY,
ON THE 2nd DAY OF June, 1908.

S. Melvina Wampler, Florence Coomer and T. D. Coomer, her husband,
Margaret Cox and W. S. Cox, her husband, J. F. Slemp, Eurie L.
Brummitt and John W. Brummitt, her husband, Martha Barker and J.
G. Barker, her husband, L. J. Slemp, R. E. L. Slemp; and Rebecca
N. Reese, Alpha N. Reese, Lou M. Reese and Alice Reese Hall, by S.
M. Wampler, their next friend,

Complainants.

v.

F. T. Riddle, Jane C. Riddle, J. W. B. Riddle, J. B. F. Riddle,
Malissa Howard, Alfred Slemp, T. H. Slemp, John Slemp, David Slemp,
Cora Patterson, Flora C. Courn, John J. Reese, Ate Reese, Arthur
Reese, Susan Barker and John B. Barker, her husband, and Lafayette
Slemp.

Defendants.

The object of this suit is to try an issue devisavit
vel non; to ascertain and try whether a certain paper writing,
dated November 21st, 1905, admitted to probate in Lee County, is
or is not the true and last will and testament of Sebastian S.
Slemp, and to have the said paper writing declared and decreed not
to be the last will and testament of the said Sebastian S. Slemp.

And affidavit having been made and filed that the defend-
ants, John J. Reese, Ate Reese, Arthur Reese, Cora Patterson and
Flora C. Courn are non-residents of this commonwealth, it is ordered
that they do appear here within fifteen days after due publication
hereof and do what may be necessary to protect their interests in this
suit; and it is ordered that a copy of this order be forthwith published
once a week for four successive weeks in the Jonesville Star, a wee k-
ly newspaper, of general circulation, published in the town of Jome s-
ville, Lee County, and that a copy be posted at the front door of the
Court House of this county as the law directs.

A copy teste:

Bullitt & Kelly,
John W. Chalkley, p. q.

H. C. P. Ewing, Clerk,

S. Melvina Hampler et al

vs { *Order of
Publication*

F. J. Riddle, et al,

Virginia, Lee County, to-wit:
I, H. C. T. Ewing, County
Clerk for the county aforesaid,
in the State of Virginia, do
certify that I posted a true
copy of the within order of
publication at the front door
of the Court-house of said
County, on this day.

Given under my hand, this
July 2nd, 1908.

H. C. T. Ewing, Clerk

ORDER OF PUBLICATION:

VIRGINIA: IN THE CLERK'S OFFICE OF THE CIRCUIT COURT OF LEE COUNTY,
ON THE ____ DAY OF ____, 1907.

S. Melvina Wampler, Florence Coomer and T. D. Coomer, her husband,
Margaret Cox and W. S. Cox, her husband, J. F. Slemp, Eurie L.
Brumit and John W. Brumit, her husband, Martha Barker and J. G.
Barker, her husband, L. J. Slemp, R. E. L. Slemp; and Rebecca N.
Reese, Alpha N. Reese, Lou M. Reese and Alice Reese Hall, by S.
M. Wampler, their next friend,

Complainants,

v.

F. T. Riddle, Jane C. Riddle, J. W. B. Riddle, J. B. F. Riddle,
Malissa Howard, Alfred Slemp, T. H. Slemp, John Slemp, David Slemp,
Cora Patterson, Flora C. Courn, John J. Reese, Ate Reese, Arthur
Reese, Susan Barker and John B. Barker, her husband, and Lafayette
Slemp,

Defendants.

The object of this suit is to try an issue devisavit
vel non; to ascertain and try whether a certain paper-writing,
dated November 21st, 1905, admitted to probate in Lee County,
is, or is not, the true last will and testament of Sebastian S.
Slemp, and to have the said paper-writing declared and decreed not
to be the last will and testament of the said Sebastian S. Slemp;

And, affidavit having been made and filed that the
defendant, Malissa Howard is a non-resident of this Commonwealth,
it is ordered that she appear here within fifteen days after due
publication hereof and do what may be necessary to protect her in-
terest in this suit; and it is ordered that a copy of this order
be forthwith published once a week for four successive weeks in the
Jonesville Star, a weekly newspaper, of general circulation, published
in the Town of Jonesville, in Lee County, and that a copy be posted
at the front door of the Court House of this County as the law

directs.

Acopy Teste:

Clerk.

Bullitt & Kelly,

Jno. W. Chalkley, p. q.

S. Melvina Hampton, et al.

vs. Order of Publication

J. J. Riddle, et al.

MEMORANDUM FOR CLERK.

CIRCUIT COURT OF LEE COUNTY, VIRGINIA.

S. Melvina Wampler, Florence Coomer and T. D. Coomer, her husband, Margaret Cox and W. S. Cox, her husband, J. F. Slemp, Eurie L. Brumit and John W. Brumit, her husband, Martha Barker and J. G. Barker, her husband, L. J. Slemp, R. E. L. Slemp; and Rebecca N. Reese, Alpha N. Reese, Lou M. Reese and Alice Reese Hall, by S. M. Wampler, their next friend,

COMPLAINANTS,

v.

F. T. Riddle, Jane C. Riddle, J. W. B. Riddle, J. B. F. Riddle, Malissa Howard, Alfred Slemp, T. H. Slemp, John Slemp, David Slemp, Susan Barker and John B. Barker, her husband, Cora Patterson, Flora C. Courn, John J. Reese, Ate Reese, Arthur Reese, and Lafayette Slemp,

DEFENDANTS.

Bill in Chancery to First September Rules, 1907.

Mrs. S. M. Wampler will hand you affidavit as to non-residence of Malissa Howard, one of the defendants. Issue Order of Publication as to her.

Direct process to the Sheriff of Lee County for the defendants, ~~F. T. Riddle, Jane C. Riddle, J. W. B. Riddle, J. B. F. Riddle, John Slemp, Alfred Slemp, David Slemp, T. H. Slemp, Cora Patterson, Flora C. Courn, John J. Reese, Ate Reese, Arthur Reese and Lafayette Slemp;~~ and process to the Sheriff of Washington County for Susan Barker and John B. Barker, her husband.

Bullitt & Kelly,

Jno. W. Chalkley, p. q.

S. Melvin & Company

} Memo. for Clerk.

J. F. Kiddle, et al.

In the Clerk's Office of the Circuit Court of the county of Lee, on the 24th
day of August, 1907

S. M. Wampler, et al.

against

Plaintiffs

Alfred Slump, et al.

Defendants

In Chancery

The object of this suit is to set aside, cancel and annul a certain
deed from S. S. Slump to Valerie Slump, John Slump
and ^{David Slump}, dated November 21st, 1905, recorded in Lee
County, in Deed Book 45, page 89, conveying a
tract of land containing one hundred and
seventeen (117) acres, known as the Sebastian S.
Slump Home Tract, and to partition the said
tract of land among the heirs at law of
the said S. S. Slump, or if the same can-
not be divided without impairing the value
thereof, to sell the same, and divide the
proceeds derived therefrom among the said
heirs according to their respective interests;

And an affidavit having been made and filed that the defendant,

Malissa Howard,

is

not ^a resident of the State of Virginia, it is ordered that she do appear here within fifteen days
after due publication hereof, and do what may be necessary to protect her interest in this suit. And it is
further ordered that a copy hereof be published once a week for four weeks in the Jonesville Star
and that a copy be posted at the front door of the Courthouse of this county as prescribed

by law

A copy—Teste:

Bullitt & Kelly,
Pro. Chancery,

P. Q.

J. C. Ewing,
By M. S. Howard, D.C.

Clerk.

L. M. Wampler, et al

vs. }

ORDER OF
PUBLICATION

Alfred Stamp, et al.

Virginia, Lee County, to-wit:
I, H. S. Ewing, County
Clerk, do certify that I
posted a true copy of the
within order of Publication
at the front door of the
Court-house of this
County on this day.

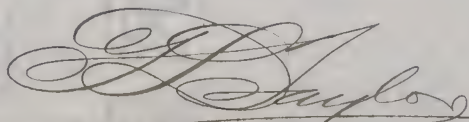
Given under my
hand this the 29th day of
August, 1907.

H. S. Ewing, Clerk.

State of Virginia :
County of Wise : To-wit:
:

This day J. F. Bullitt, personally appeared before me G. L. Taylor, a Notary Public in and for the County and State aforesaid, and made oath that John J. Reese, Ate Reese, Arthur Reese, Croa Patterson and Flora C. Courn, against whom a suit in equity is about to be instituted in the Circuit Court of Lee County, Virginia, by S. M. Wampler and others are non-residents of this Commonwealth.

Given under my hand this 1st day of July, 1908.
My Commission expires on the ^{4th} ~~24th~~ day of January, 1911.


Notary Public.

1307

J. M. Samples et al

*va { Affidavit
for
Order of Publication*

Alfred Samples et al

Filed July 2, 1908.

H. C. T. Ewing,

Clerk.

STRAITHMOUTH PARCUMENT

ORDER OF PUBLICATION.

VIRGINIA: IN THE CLERK'S OFFICE OF THE CIRCUIT COURT OF LEE COUNTY
ON THE 2nd DAY OF July, 1908.

S. M. Wampler, Florence Coomer and T. D. Coomer, her husband,
Margaret Cox and W. S. Cox, her husband, J. F. Slemp, Eurie L.
Brummitt and John W. Brummitt, her husband, Martha Barker and
J. G. Barker, her husband, L. F. Slemp, R. E. L. Slemp, and Rebecca
N. Reese, Alpha N. Reese, Lou M. Reese and Alice Reese Hall, by
S. M. Wampler, their next friend,

Complainants.

vs.

Alfred Slemp, T. H. Slemp, David Slemp, John Slemp, Susan Barker
and John B. Barker, her husband, Cora Patterson, Flora C. Courn,
John J. Reese, Ate Reese, Arthur Reese, Lafayette Slemp, F. T.
Riddle, ~~James C. Riddle~~, Jane C. Riddle, J. W. B. Riddle, J. B. F.
Riddle, and Malissa Howard.

Defendants.

The object of this suit is to set aside cancel and annul
a certain deed from S. S. Slemp to Velerie Slemp, John Slemp and
David Slemp, dated November 21st, 1905, recorded in Lee County,
in Deed Book 45, page 89, conveying a tract of land containing one
hundred and seventeen (117) acres, known as the Sebastian S. Slemp
Home Tract, and to partition the said tract of land among the heirs
at law of the said S. S. Slemp, or if the same cannot be divided
without impairing the value thereof, to sell the same, and divide
the proceeds derived therefrom among the said heirs according to
their respective interests.

And affidavit having been made and filed that the defend-
ants John J. Reese, Ate Reese, Arthur Reese, Cora Patterson and
Flora C. Courn are nonresidents of this commonwealth, it is ordered
that they do appear here within fifteen days after due publication
hereof and do what may be necessary to protect their interests
in this suit; and it is ordered that a copy of this order be forthwith
published once a week for four successive weeks in the Jonesville
Star, a weekly newspaper of general circulation, published in the
Town of Jonesville, Lee County, and that a copy be posted at the
front door of the Court House of this County as the law directs.

A Copy teste:

Bullitt & Kelly,
Jno. W. Chalkley, p. q.

H. C. J. Ewing

Clerk

S. M. Hampler et al.

*vs { Order of
Publication*

Alfred Slump et al.

Virginia, Lee County, to-wit:

I, H. C. T. Ewing, County
Clerk for the county aforesaid,
in the State of Virginia, do cer-
tify that I posted a true copy
of the within order of publica-
tion at the front door of the
Court-house of said County, on
this day.

Given under my hand, this
July 2nd, 1908.

H. C. T. Ewing, Clerk.

ORDER OF PUBLICATION.

VIRGINIA: IN THE CLERK'S OFFICE OF THE CIRCUIT COURT OF LEE COUNTY:
ON THE ____ DAY OF AUGUST, 1907.

S. M. Wampler, Florence Coomer and T. D. Coomer, her husband,
Margaret Cox and W. S. Cox, her husband, J. F. Slemp, Eurie L.
Brumit and John W. Brumit, her husband, Martha Barker and
J. G. Barker, her husband, L. J. Slemp, R. E. L. Slemp, and Rebecca
N. Reese, Alpha N. Reese, Lou M. Reese and Alice Reese Hall, by
S. M. Wampler their next friend,

Complainants,

vs.

Alfred Slemp, T. H. Slemp, David Slemp, John Slemp, Susan Barker
and John B. Barker, her husband, Cera Patterson, Flora C. Courn,
John J. Reese, Ate Reese, Arthur Reese, Lafayette Slemp, F. T.
Riddle, Jane C. Riddle, J. W. B. Riddle, J. B. F. Riddle, and Ma-
lissa Howard,

Defendants.

The object of this suit is to set aside, cancel and annul
a certain deed from S. S. Slemp to Velerie Slemp, John Slemp and
David Slemp, dated November 21st, 1905, recorded in Lee County,
in Deed Book 45, page 89, conveying a tract of land containing one
hundred and seventeen (117) acres, known as the Sebastian S. Slemp
Home Tract, and to partition the said tract of land among the heirs
at law of the said S. S. Slemp, or if the same cannot be divided
without impairing the value thereof, to sell the same, and divide
the proceeds derived therefrom among the said heirs according to
their respective interests;

And affidavit having made and filed that the defendant,
Malissa Howard is a non-resident of this Commonwealth, it is ordered

that she appear here within fifteen days after due publication here-
of and do what may be necessary to protect her interest in this suit;
and it is ordered that a copy of this order be forthwith published
once a week for four successive weeks in the Jonesville Star,
a weekly newspaper of general circulation, published in the Town of
Jonesville, in Lee County, and that a copy be posted at the front
door of the Court House of this County as the law directs.

A copy teste:

Clerk.

Bullitt & Kelly,

Jno. W. Chalkley, p. q.

A. M. Wampler et al

} Order of Publication

Alfred Kemp et al,

The Commonwealth of Virginia,

To the Sheriff of the County of Lee, Greeting:

WE COMMAND YOU, That you summon

*Alfred Slump, F. H. Slump,
David Slump, John Slump, Susan Barker,
and John B. Barker, her husband, Coon Patterson,
Gloss C. Coorn, John J. Reese, Ate Reese, Arthur
Reese, Lafayette Slump, F. F. Riddle, Jane C.
Riddle, J. H. B. Riddle, J. B. F. Riddle and
Melissa Howard.*

to appear at the Clerk's office of the Circuit Court of the County of Lee, at rules to be held for the said court,
on the *1st* Monday in *September*, 190*7* to answer a bill in chancery exhibited against

*them by S. M. Hampler, Florence Coomer
and F. D. Coomer, her husband, Margaret Cox
and W. S. Cox, her husband, J. G. Slump, Currie
L. Brummit + Jno. W. Brummit, her hus-
band, Martha Barker + J. G. Barker, her hus-
band, L. J. Slump, R. E. L. Slump and Re-
becca N. Reese, Alpha N. Reese, Lou M.
Reese and Alice Reese, all by S. M. Ham-
pler, their next friend.*

And have then there this writ. Witness, H. C. T. EWING, Clerk of our said Court, at the court-house, the *23*"
day of *August*, 190*7*, and 1*32*" year of the Commonwealth.

A Copy, Teste:

H. C. T. Ewing, Clerk

_____, Clerk.

S. M. Hambley, et al,

VS

}

SUBPOENA
IN
CHANCERY.

Alfred Slomp, et al,

Balitt & Kelly}
Gold Chalkley } p. q

To 1st Sept. Rules.

Lee Circuit Court.

1907

executed by
summon
alfred Slomp
J. H. Slomp
David Slomp
John Slomp
Labarette Slomp
L. J. Riddell
Jane C. Riddell
J. W. B. Riddell
J. B. H. Riddell
This day 27 1907
J. J. Hughes D. L.
for J. M. Ball
D. L. C.

The Commonwealth of Virginia,

To the Sheriff of the County of Lee, Greeting:

WE COMMAND YOU, That you summon

Alfred Slomp, F. H. Slomp,
David Slomp, John Slomp, Susan Barker and
John B. Barker, her husband, Cora Patterson,
Flora C. Coern, John J. Reese, Ole Reese, Arthur
Reese, Lafayette Slomp, F. F. Riddle, Jane
C. Riddle, J. W. B. Riddle, J. B. F. Riddle
and Melissa Howard.

to appear at the Clerk's office of the Circuit Court of the County of Lee, at rules to be held for the said court,
on the 1st Monday in September, 1907, to answer a bill in chancery exhibited against

them by S. M. Hampler, Florence Cooner and F.
D. Cooner, her husband, Margaret Cox and W. S. Cox,
her husband, J. G. Slomp, Eurie L. Brummit &
Jas. W. Brummit, her husband, Martha Barker
and J. G. Barker, her husband, L. J. Slomp, R. E. L.
Slomp and Rebecca N. Reese, Alpha N. Reese,
Lou M. Reese and Alice Reese Hall, by S. M.
Hampler, their next friend.

And have then there this writ. Witness, H. C. T. EWING, Clerk of our said Court, at the court-house, the 23rd
day of August, 1907, and 132nd year of the Commonwealth.

A Copy, Teste:

H. C. T. Ewing, Clerk.

H. C. T. Ewing, Clerk

VS

}

SUBPENA
IN
CHANCERY.

p. q

To.....Rules.

.....Court.

For
Cora Patterson
in Texas

The Commonwealth of Virginia,

To the Sheriff of the County of Lee, Greeting:

WE COMMAND YOU, That you summon

*Alfred Slomp, G. H. Slomp,
David Slomp, John Slomp, Susan Barker,
and John B. Barker, her husband, Coas. Patterson,
Flora C. Coarn, John J. Reese, Ada Reese, Arthur
Reese, Lafayette Slomp, G. F. Riddle, Jane C.
Riddle, J. W. B. Riddle, J. B. F. Riddle and
Malissa Howard*

to appear at the Clerk's office of the Circuit Court of the County of Lee, at rules to be held for the said court,
on the *1st* Monday in *September*, 190*7*, to answer a bill in chancery exhibited against

*them by S. M. Wampler, Florence Coomer,
and H. D. Coomer, her husband, Margaret Cox
and W. S. Cox, her husband, J. G. Slomp, Currie
L. Brummit & Geo. W. Brummit, her husband
Martha Barker and J. G. Barker, her husband,
L. J. Slomp, R. E. L. Slomp and Rebecca N. Reese,
Alpha N. Reese, Lou M. Reese and
Alice Reese Hall, by S. M. Wampler, their
next friend*

And have then there this writ. Witness, H. C. T. EWING, Clerk of our said Court, at the court-house, the *23rd*
day of *August*, 190*7*, and *1907* year of the Commonwealth.

A Copy, Teste:

H. C. T. Ewing, Clerk.

H. C. T. Ewing, Clerk

VS

}

SUBPOENA
IN
CHANCERY.

-----p. q

To-----Rules.

-----Court.

For
Flora C. Courn
in Texas

The Commonwealth of Virginia,

To the Sheriff of the County of Lee, Greeting:

WE COMMAND YOU, That you summon

*Alfred Slemm, F. H. Slemm,
David Slemm, John Slemm, Susan Barker,
and John B. Barker, her husband, Cora Cat-
tersen, Flora C. Courn, John J. Reese, O. Reese
Arthur Reese, Lafayette Slemm, F. F. Riddle,
Jane C. Riddle, J. W. B. Riddle, J. B. F. Riddle
and Malissa Howard,*

to appear at the Clerk's office of the Circuit Court of the County of Lee, at rules to be held for the said court,
on the 1st Monday in *September*, 190*7* to answer a bill in chancery exhibited against

*them by S. M. Hampler, Florence Coomer
and G. D. Coomer, her husband, Margaret Cox
and W. S. Cox, her husband, J. G. Slemm, Currie
L. Brummitt & Jno. W. Brummitt, her hus-
band, Martha Barker & J. G. Barker, her
husband, L. J. Slemm, R. E. L. Slemm and
Rebecca N. Reese, Alpha N. Reese, Lou M. Reese
and Alice Reese. Shall by S. M. Hampler,
their next friend.*

And have then there this writ. Witness, H. C. T. EWING, Clerk of our said Court, at the court-house, the.....

day of *August*, 190*7*, and 1. *32*" year of the Commonwealth.

A Copy, Teste:

H. C. T. Ewing, Clerk.

H. C. T. Ewing, Clerk

VS

{

SUBPOENA
IN
CHANCERY.

-----p. q

To-----Rules.

-----Court.

For
John F. Reese
in Texas

The Commonwealth of Virginia,

To the Sheriff of the County of Lee, Greeting:

WE COMMAND YOU, That you summon

Alfred Slomp, G. H. Slomp,
David Slomp, John Slomp, Susan Barker
and John B. Barker, her husband, Cora Pat-
erson, Flora C. Courn, John J. Reese, etc. Reese Arthur
Reese, Lafayette Slomp, G. G. Riddle, Jane C. Riddle
J. M. B. Riddle, J. B. Riddle and Malissa
Howard

to appear at the Clerk's office of the Circuit Court of the County of Lee, at rules to be held for the said court,
on the 1st Monday in September, 1907, to answer a bill in chancery exhibited against

them by S. M. Wampler, Florence Comer, and
G. D. Comer, her husband, Margaret Cox and
W. S. Cox, her husband, J. G. Slomp, Currie L.
Bruumit & Geo. W. Bruumit, her husband,
Martha Barker & J. G. Barker, her husband,
L. J. Slomp, R. E. L. Slomp and Rebecca N. Reese,
Alpha N. Reese, Lou M. Reese and Alice Reese
Hall, by S. M. Wampler, their next friend

And have then there this writ. Witness, H. C. T. EWING, Clerk of our said Court, at the court-house, the 23rd
day of August, 1907, and 1922nd year of the Commonwealth.

A Copy, Teste:

H. C. T. Ewing, Clerk.

H. C. T. Ewing, Clerk

VS

}

SUBPŒNA
IN
CHANCERY.

-----p. q

To-----Rules.

-----Court.

For

Wte Reese
in Texas

The Commonwealth of Virginia,

To the Sheriff of the County of Lee, Greeting:

WE COMMAND YOU That you summon

Alfred Slump, T. H. Slump,
David Slump, John Slump, Silson Barker,
and John B. Barker, their husband, Cora Pat-
terson, Flora C. Coover, John J. Reese, At. Reese, Ar-
thur Reese, Lafayette Slump, F. F. Riddle, Jane
C. Riddle, J. W. B. Riddle, J. B. F. Riddle and
Melissa Howard.

to appear at the Clerk's office of the Circuit Court of the County of Lee, at rules to be held for the said court,
on the 1st Monday in September, 1907, to answer a bill in chancery exhibited against

them by S. M. Wampler, Florence Corner
and H. D. Corner, her husband, Margaret
Cox and M. S. Cox, her husband, J. F. Slump,
Eugenia L. Brummit + Geo. W. Brummit - her
husband, Martha Barker + J. G. Barker, her
husband, L. J. Slump, R. E. D. Slump and Re-
becca N. Reese, Alpha N. Reese, Lys. M. Reese
and Alice Reese Hall, by S. M. Wamp-
ler, their next friend.

And have then there this writ. Witness, H. C. T. EWING, Clerk of our said Court, at the court-house, the 23rd
day of August, 1907, and 1st year of the Commonwealth.

A Copy, Teste:

H. C. T. Ewing, Clerk.

H. C. T. Ewing, Clerk.

VS

}

SUBPOENA
IN
CHANCERY.

-----p. q

To-----Rules.

-----Court.

For
Arthur Reese
in Texas

The Commonwealth of Virginia,

Washington,
To the Sheriff of the County of ~~Lee~~ ^{Lee}, Greeting:

WE COMMAND YOU, That you summon

*Alfred Slump, J. H. Slump,
David Slump, John Slump, Susan Barker,
and John B. Barker, her husband, Cora Patterson,
Flora C. Coom, John J. Reese, Ate Reese, Ar-
thur Reese, Lafayette Slump, F. J. Riddle, Jane
C. Riddle, J. W. B. Riddle, J. B. F. Riddle and
Malissa Howard,*

to appear at the Clerk's office of the Circuit Court of the County of Lee, at rules to be held for the said court,
on the 1st Monday in September, 1907, to answer a bill in chancery exhibited against

*them by S. M. Wampler, Florence Coomer and J. D.
Coomer, her husband, Margaret Cox and W. S. Cox,
her husband, J. F. Slump, Curie L. Brummit &
Jno. H. Brummit, her husband, Martha Barker
and J. G. Barker, her husband, L. J. Slump, R. E. L.
Slump, and Rebecca N. Reese, Alpha N. Reese,
Lou N. Reese, and Alice Reese Hall, by S. M.
Wampler, their next friend,*

And have then there this writ. Witness, H. C. T. EWING, Clerk of our said Court, at the court-house, the 23rd
day of August, 1907, and 132nd year of the Commonwealth.

A Copy, Teste:

H. C. T. Ewing, Clerk

_____, Clerk.

S. M. Thompson et al

VS

SUBPOENA
IN
CHANCERY.

Alfred Kemp, et al

Bruce O'Kelly
James O'Kelly

To First Sept. Rules.

Lee Circuit Court.
1907

Executed Aug 24 1907
by delivering a copy of the within copy
in & by to John B. Barber. &
Dean B. Barber. in person
W. H. Stevens & Co
for J. W. Henderson & Co

The Commonwealth of Virginia,

To the Sheriff of the County of Lee, Greeting:

We command you, That you summon F. T. Riddle, Jane C. Riddle, J. W. B. Riddle, J. B. F. Riddle, Malissa Howard, Alfred Slomp, T. H. Slomp, John Slomp, David Slomp, Susan Barker and John B. Barker, her husband, Cora Patterson, Flora C. Courn, John J. Reese, Ate Reese, Arthur Reese and Lafayette Slomp to appear at the Clerk's office of the Circuit Court of the County of Lee, at the rules to be held for the said court, on the 1st Monday in September, 1907, to answer a bill in chancery exhibited against them by S. Melvina Wampler, Florence Coomer and T. D. Coomer, her husband, Margaret Cox and W. S. Cox, her husband, J. F. Slomp, Eunie L. Brummit and John W. Brummit, her husband, Martha Barker and J. G. Barker, her husband, L. J. Slomp, R. E. L. Slomp, and Rebecca W. Reese, Alpha W. Reese, Lou M. Reese and Alice Reese Hall, by S. M. Wampler, their next friend. And have then there this writ. Witness, H. C. T. Ewing, Clerk of our said Court, at the court-house, the 23rd day of August, 1907, and 132nd year of the Commonwealth.

A COPY,

TESTE: H. C. T. Ewing Clerk.

H. C. T. Ewing, Clerk.

For
Flora C. Courn
in Texas.

The Commonwealth of Virginia,

To the Sheriff of the County of Lee, Greeting:

We command you, That you summon F. T. Riddle, Jane C. Riddle, J. W. B. Riddle, J. B. F. Riddle, Malissa Howard, Alfred Slemp, T. H. Slemp, John Slemp, David Slemp, Susan Barker and John B. Barker, her husband, Cora Patterson, Flora C. Courn, John J. Reese, Ate Reese, Arthur Reese and Lafayette Slemp to appear at the Clerk's office of the Circuit Court of the County of Lee, at the rules to be held for the said court, on the 1st Monday in September, 1907, to answer a bill in chancery exhibited against them by S. Melvina Wampler, Florence Coomer and T. D. Coomer, her husband, Margaret Cox and W. S. Cox, her husband, J. F. Slemp, Eurie L. Brummit and John W. Brummit, her husband, Martha Barker and J. G. Barker, her husband, L. J. Slemp, R. E. L. Slemp, and Rebecca N. Reese, Alpha N. Reese, Lou M. Reese and Alice Reese Ball, by S. M. Wampler, their next friend. And have then there this writ. Witness, H. C. T. Ewing, Clerk of our said Court, at the court-house, the 23rd day of August, 1907, and 132nd year of the Commonwealth.

A Copy,

H. C. T. Ewing, Clerk.

Teste: H. C. T. Ewing, Clerk.

For
Arthur Reese
in Lds

The Commonwealth of Virginia,

To the Sheriff of the County of Lee, Greeting:

We command you, That you summon F. T. Middle, Jane C. Riddle, J. F. B. Riddle, J. B. F. Riddle, Malissa Howard, Alfred Sloop, T. H. Sloop, John Sloop, David Sloop, Susan Barker and John B. Barker, her husband, Cora Patterson, Flora C. Courn, John J. Reese, Ate Reese, Arthur Reese and Lafayette Sloop to appear at the Clerk's office of the Circuit Court of the County of Lee, at the rules to be held for the said court, on the 1st Monday in September, 1907, to answer a bill in chancery exhibited against them by S. Melvina Wampler, Florence Coomer and T. D. Coomer, her husband, Margaret Cox and W. S. Cox, her husband, J. F. Sloop, Eurio L. Brummit and John W. Brummit, her husband, Martha Barker and J. S. Barker, her husband, L. J. Sloop, R. E. L. Sloop, and Rebecca N. Reese, Alpha N. Reese, Lou M. Reese and Alice Reese Hall, by S. M. Wampler, their next friend. And have then there this writ. Witness, H. C. T. Ewing, Clerk of our said Court, at the court-house, the 23rd day of August, 1907, and 132nd year of the Commonwealth.

A COPY,

H. C. T. Ewing, Clerk.

TESTE: H. C. T. Ewing Clerk.

For
Cora Patterson
in Ted

The Commonwealth of Virginia,

To the Sheriff of the County of Lee, Greeting:

We command you, That you summon F. T. Riddle, Jane C. Riddle, J. W. B. Riddle, J. B. F. Riddle, Malissa Howard, Alfred Slemp, T. H. Slemp, John Slemp, David Slemp, Susan Barker and John B. Barker, her husband, Cora Patterson, Flora C. Courn, John J. Reese, Ate Reese, Arthur Reese and Lafayette Slemp to appear at the Clerk's office of the Circuit Court of the County of Lee, at the rules to be held for the said court, on the 1st Monday in September, 1907, to answer a bill in chancery exhibited against them by S. Melvina Wampler, Florence Coomer and T. D. Coomer, her husband, Margaret Cox and W. S. Cox, her husband, J. F. Slemp, Eurie L. Brummit and John W. Brummit, her husband, Martha Barker and J. G. Barker, her husband, L. J. Slemp, R. E. L. Slemp, and Rebecca N. Reese, Alpha N. Reese, Lou M. Reese and Alice Reese Hall, by S. M. Wampler, their next friend. And have then there this writ. Witness, H. C. T. Ewing, Clerk of our said Court, at the court-house, the 23rd day of August, 1907, and 132nd year of the Commonwealth.

A Copy,

H. C. T. Ewing, Clerk.

Teste: H. C. T. Ewing, Clerk.

[Signature]

1. The first step is to identify the problem or question that needs to be answered. This involves understanding the context and the specific requirements of the task.

G

1. The first part of the paper is devoted to the study of the asymptotic behavior of the solutions of the system (1) as $t \rightarrow \infty$. It is shown that the solutions of the system (1) tend to zero as $t \rightarrow \infty$ if and only if the matrix A is Hurwitz. This result is obtained by using the method of the variation of constants.

1

The Commonwealth of Virginia,

To the Sheriff of the County of Lee, Greeting:

We command you, That you summon F. T. Riddle, Jane C. Riddle, J. W. B. Riddle, J. B. F. Riddle, Malissa Howard, Alfred Slemp, T. H. Slemp, John Slemp, David Slemp, Susan Barker and John B, Barker, her husband, Cora Patterson, Flora C, Courn, John J, Reese, Ate Reese, Arthur Reese and Lafayette Slemp to appear at the Clerk's office of the Circuit Court of the County of Lee, at the rules to be held for the said court, on the 1st Monday in September, 1907, to answer a bill in chancery exhibited against them by S. Melvina Wampler, Florence Coomer and T. D. Coomer, her husband, Margaret Cox and W. S. Cox, her husband, J. F. Slemp, Eurie L, Brummit and John W. Brummit, her husband, Martha Barker and J. G. Barker, her husband, L. J. Slemp, R. E. L. Slemp, and Rebecca N. Reese, Alpha N. Reese, Lou M. Reese and Alice Reese Hall, by S. M. Wampler, their next friend. And have then there this writ. Witness, H. C. T. Ewing, Clerk of our said Court, at the court-house, the 23rd day of August, 1907, and 132nd year of the Commonwealth.

A COPY,

H. C. T. Ewing, Clerk.

TESTE: H. C. T. Ewing Clerk.

For
John J. Reese
in Texas

The Commonwealth of Virginia,

To the Sheriff of the County of Lee, Greeting:

We command you, That you summon F. T. Riddle, Jane C. Riddle, J. W. B. Riddle, J. B. F. Riddle, Malissa Howard, Alfred Slemp, T. H. Slemp, John Slemp, David Slemp, Susan Barker and John B, Barker, her husband, Cora Patterson, Flora C. Courn, John J. Reese, Ate Reese, Arthur Reese and Lafayette Slemp to appear at the Clerk's office of the Circuit Court of the County of Lee, at the rules to be held for the said court, on the 1st Monday in September, 1907, to answer a bill in chancery exhibited against them by S. Melvina Wampler, Florence Coomer and T. D. Coomer, her husband, Margaret Cox and W. S. Cox, her husband, J. F. Slemp, Eurie L. Brummit and John W. Brummit, her husband, Martha Barker and J. G. Barker, her husband, L. J. Slemp, R. E. L. Slemp, and Rebecca N. Reese, Alpha N. Reese, Lou M. Reese and Alice Reese Hall, by S. M. Wampler, their next friend. And have then there this writ. Witness, H. C. T. Ewing, Clerk of our said Court, at the court-house, the 23rd day of August, 1907, and 132nd year of the Commonwealth.

A Copy,

H. C. T. Ewing, Clerk.

Teste: _____, Clerk.

J. Melvin Hamphre^{et al}
vs J. Chauncy
J. J. Riddle, et al

Bullitt & Kelly } pg.
Jno. W. Chalkley }

To 1st Sept. Rules.

Lee Circuit Court.

1907
executed by summons
To J. Riddle
John C. Riddle
J. W. B. Riddle
J. B. Riddle
Alfred Slomp
W. H. Slomp
John Slomp
David Slomp
Yafayette Slomp
Thurs Aug 27. 1907
J. J. Hughes D. M.
for D. M. Ball
A. L. C.

The Commonwealth of Virginia,

To the Sheriff of the County of ^{Washington,} ~~Lee~~, Greeting:

WE COMMAND YOU, That you summon

F. T. Riddle, Jane C. Riddle, J. W. B. Riddle, J. B. F. Riddle, Malissa Howard, Alfred Slomp, J. H. Slomp, John Slomp, David Slomp, Susan Barker, and John B. Barker, her husband, Cora Patterson, Flora C. Coun, John J. Reese, Ate Reese, Arthur Reese, and Lafayette Slomp,

to appear at the Clerk's office of the Circuit Court of the County of Lee, at rules to be held for the said court,

on the ^{9th} Monday in *September*, 1907, to answer a bill in chancery exhibited against

Theresa S. Melvina Hamblin, Florence Coomer, and J. D. Coomer, her husband, Margaret Cox and W. S. Cox, her husband, J. F. Slomp, Curie L. Brummit and John W. Brummit, her husband, Martha Barker and J. G. Barker, her husband, L. J. Slomp, H. L. Slomp, and Rebecca Reese, Alpha W. Reese, Lou W. Reese, and Alice Reese Hall, by S. M. Hamblin, her next friend,

And have then there this writ. Witness, H. C. T. EWING, Clerk of our said Court, at the court-house, the ^{23rd} day of *August*, 1907, and 1^{32nd} year of the Commonwealth.

A Copy, Teste:

H. C. T. Ewing, Clerk

_____, Clerk.

A Melvina Namples et al

VS

SUBPOENA
IN
CHANCERY.

F J Ridder et al

Bullitt & Kelley
Insurance Co
p. 4

To Ford & Pugh Rules.

Lee Circuit Court.
1907

Executed Aug 24 1907
by delivering a copy of the within exam-
ination to John B. Barker & Susan Barker
in person

W H Stiles & S

for J W Hattenstone SWE

The Commonwealth of Virginia,

To the Sheriff of the County of Lee, Greeting :

WE COMMAND YOU THAT YOU SUMMON

F. M. Clarkston

to appear before the Judge of our Circuit Court of the County of Lee, at the court-house thereof, on the *9th* day of *Sept.*, 18*99*, to testify and the truth to say in behalf of the *defendants*, in a certain matter of controversy in our said court before the said Judge depending and undetermined between

S. Melvina Wampler, et al,

Plaintiff, and

F. J. Riddle, et al, Defendant *S.* And this *he*

shall in no wise omit, under the penalty of £100. And have then there this writ.

Witness, *H. G. Ewing,* Clerk of our said court, at the court-house the *7th* day of

Sept., 18*99*, and in the 12*4* year of the Commonwealth.

H. G. Ewing, Clerk

F. T. Riddle et al,

ads. {

SUBPOENA
FOR
WITNESS.

S. Melvin Hampler, et al,

Lee Circuit Court

Sept. 7th Court,

the day of

1899

Executed by
ing Mr. F. L. Weston -
on Sept 7th - 1907 this
Sept 7th 1907
G. V. Sage. D.S. for
W. Y. Tucker. S.L.C.

The Commonwealth of Virginia,

To the Sheriff of the County of Lee Greeting:

WE COMMAND YOU THAT YOU SUMMON

C. E. Flanary

to appear before the Judge of our Circuit Court of the County of Lee, at the court-house thereof, on the

6th

day of

May

190 *9*

, to testify and the truth to say in behalf of the

Defendants

, in a certain matter of controversy in our said court before the
said Judge depending and undetermined between

S. Melvina Wampler, et al,

Plaintiff, and

F. T. Riddle et al,

Defendants

And this

he

shall in no wise omit, under the penalty of £100. And have then there this writ.

Witness H. C. T. EWING, Clerk of our said court, at the court house the

30th

day of

April

190 *9*

, and in the *1833rd*

year of the Commonwealth.

H. C. T. Ewing, Clerk

J. J. Riddle, et al,

vs.

SUBPOENA
FOR
WITNESS

J. Melvina Hampl, et al,

Lee Circuit Court,

the 6th day of May,

190 9.

Executed in full
this May 15th 1909
H. Y. Tucker S. S.

The Commonwealth of Virginia,

To the Sheriff of the County of ^{Wise} ~~Lee~~ Greeting:

WE COMMAND YOU THAT YOU SUMMON

*Dr. G. C. Gilmer, Dr. J. A. Gilmer
and W. M. Slump*

to appear before the Judge of our Circuit Court of the County of Lee, at the court-house thereof, on the

day of

May, 190*9*, to testify and the truth to say in behalf of the

defendants, in a certain matter of controversy in our said court before the
said Judge depending and undetermined between

S. Mehina Wampler, et al, Plaintiff, and

F. T. Riddle, et al, Defendants. And this *They*

shall in no wise omit, under the penalty of £100. And have then there this writ.

Witness H. C. T. EWING, Clerk of our said court, at the court house the

30th day of *April,* 190*9*, and in the *53rd* year of the Commonwealth.

H. C. T. Ewing, Clerk.

F. J. Riddle et al,

vs.

SUBPOENA
FOR
WITNESS

S. Melvina Wampler et al,

Lee Circuit Court,

the *6th* day of *May,*

190 *9*

*Executed in full
Except W.M. Slomp
not found in commonwealth
J.B. Kiser S.W.C.
by J.G. Mullins D.L.*

The Commonwealth of Virginia,

To the Sheriff of the County of Lee Greeting:

WE COMMAND YOU THAT YOU SUMMON

*Harvey Young, F. M. Clarkston,
John Gilly, W. S. Coldiron, John J. Reaser,
P. M. Reaser, J. B. F. Olinger, Valeria Davis,
W. M. Slings*

to appear before the Judge of our Curcuit Court of the County of Lee, at the court-house thereof, on the *6th*
day of *May*, 190*9*, to testify and the truth to say in behalf of the

Defendants, in a certain matter of controversy in our said court before the
said Judge depending and undetermined between

S. Melvin a Hamphre, et al, Plaintiff, and

F. J. Riddle, et al, Defendants . And this *They*

shall in no wise omit, under the penalty of £100. And have then there this writ.

Witness H. C. T. EWING, Clerk of our said court, at the court house the *30th* day of

April, 190*9*, and in the 1*83rd* year of the Commonwealth.

H. C. T. Ewing, Clerk

F. J. Riddle, et al,

vs,

SUBPOENA
FOR
WITNESS

S. Melvina Hamplur, et al,

Lee Circuit Court,

the *6th* day of *May,*

190 *9.*

*Executed by summoning
all of the with in
witnesses this may 5th
1909 G. W. Sage & Co
for W. J. Tucker & L. C.*

The Commonwealth of Virginia,

To the Sheriff of the County of Lee Greeting:

WE COMMAND YOU THAT YOU SUMMON

C. E. Flannery

to appear before the Judge of our Circuit Court of the County of Lee, at the court-house thereof, on the *6th*
day of *May* 190*9*, to testify and the truth to say in behalf of the

defendant, in a certain matter of controversy in our said court before the
said Judge depending and undetermined between

S. Melvina Wampler, et al.

Plaintiffs, and

D. B. Riddle et al

Defendants

And this

he

shall in no wise omit, under the penalty of £100. And have then there this writ.

Witness H. C. T. EWING, Clerk of our said court, at the court house the *5th* day of

May

190*9*, and in the *42/33* year of the Commonwealth.

H. C. T. Ewing, Clerk

S. M. Wampler, et al,
L. E. Flanagan, et al,

VS.

} SUBPOENA
FOR
WITNESS

D. P. Riddle, et al,

Lee Circuit Court,

the *6th* day of *May,*

190*9*

The Commonwealth of Virginia,

To the Sheriff of the County of Lee Greeting:

WE COMMAND YOU THAT YOU SUMMON

Lafayette M. Wade, Charlie Bailey, Harvey Young, Jonathan Coomer, J. C. Jones, Mrs. Virginia Davis, J. C. J. Reaser, Charlie Reaser, J. T. P. Carson, W. A. Ward, Jonathan Ward, Mrs. W. A. Ward, John Henry Reaser, E. M. Clayton, Alma Bryant, John Shuler, Chad Simpson, C. M. Wood, Dan Rogers, L. J. Simpson, George W. Derry, Rev. Mrs. Murlin, John Rivers, E. S. Stout, J. C. Flannery, Albert S. Flannery, Joshua E. Hobbs and Elkanah Cunningham, + J. L. Olinger, + Henry Olinger and Henry Reaser, et al.

to appear before the Judge of our Circuit Court of the County of Lee, at the court-house thereof, on the 6th

day of May, 1909, to testify and the truth to say in behalf of the

plaintiffs, in a certain matter of controversy in our said court before the said Judge depending and undetermined between

S. Melvina Hamplur, et al., Plaintiff, and

J. T. Riddle, et al., Defendants. And this They

shall in no wise omit, under the penalty of £100. And have then there this writ.

Witness H. C. T. EWING, Clerk of our said court, at the court house the 30th day of

April, 1909, and in the 33rd year of the Commonwealth.

H. C. T. Ewing, Clerk

S. Melvina Wampler, et al,

VS.

SUBPOENA
FOR
WITNESS

F. T. Riddle, et al,

Lee Circuit Court,

the *6th* day of *May,*

190 *9.*

Executed by summoning
all of the within
witnesses except
John Shuler, Lee Comer
and C. M. Wood this
May 5th 1909
G. V. Sage, D. C.
for W. J. Tucker, D. C.

The Commonwealth of Virginia,

To the Sheriff of the County of Lee Greeting:

WE COMMAND YOU THAT YOU SUMMON

Riley Lawson and J.A.G.
By att

to appear before the Judge of our Circuit Court of the County of Lee, at the court-house thereof, on the *6th*
day of *May*, 190 *9*, to testify and the truth to say in behalf of the

plaintiffs, in a certain matter of controversy in our said court before the
said Judge depending and undetermined between

S. Melvina Wampler, et al, Plaintiff, and

F. J. Riddle, et al, Defendants . And this *They*

shall in no wise omit, under the penalty of £100. And have then there this writ.

Witness H. C. T. EWING, Clerk of our said court, at the court house the *30th* day of

April, 190 *9*, and in the *33rd* year of the Commonwealth.

H. C. T. Ewing, Clerk.

S. Melvina Hambley, et al,

VS.

SUBPOENA
FOR
WITNESS

F. J. Riddle, et al,

Lee Circuit Court,

the 6th day of May,

190 9.

Executed in full
this May 11th 2nd
1909 W. G. Loober
J. L. C.

The Commonwealth of Virginia,

To the Sheriff of the County of Lee Greeting:

WE COMMAND YOU THAT YOU SUMMON *Elbert Pledsoe and Robert*
E. L. Slump

to appear before the Judge of our Circuit Court of the County of Lee, at the court-house thereof, on the *6th*
day of *May*, 190*9*, to testify and the truth to say in behalf of the
plaintiffs, in a certain matter of controversy in our said court before the
said Judge depending and undetermined between

S. Melvina Hamplis, et al. Plaintiff, and

F. J. Riddle, et al. Defendants . And this *They*

shall in no wise omit, under the penalty of £100. And have then there this writ.

Witness H. C. T. EWING, Clerk of our said court, at the court house the *30th* day of
April, 190*9*, and in the 19*33*["] year of the Commonwealth.

H. C. T. Ewing, Clerk.

S. Melvin Wampler, et al,

VS.

SUBPOENA
FOR
WITNESS

J. T. Riddle, et al,

Lee Circuit Court,

the *6th* day of *May,*

190 *9*

*Executed by summons
Robert R. H. H. H. H.
Robert E. L. H. H. H.
this 1st day of May
1909
W. H. H. H. H. H.
for W. H. H. H. H. H.*

In the Clerk's Office of the Circuit Court of the county of Lee, on the 24th
 day of August, 1907

S. Melvina Wampler, et al.

Plaintiffs

against

G. D. Riddle, et al.

Defendants

In Chancery

The object of this suit is to try an issue devisavit-vel non; to ascertain and try whether a certain paper-writing dated November 1st, 1905, admitted to probate in Lee County, is, or is not the true last will and testament of Sebastian S. Slomp. And to have the said paper-writing declared and decreed not to be the last will and testament of the said Sebastian S. Slomp;

And an affidavit having been made and filed that the defendant,

Malissa Howard

^a
not resident

of the State of Virginia, it is ordered that

she

do appear here within

fifteen days

after due publication hereof, and do what may be necessary to protect

her

interest in this suit. And it is

further ordered that a copy hereof be published once a week for four weeks in the

Jonesville Star

and that a copy be posted at the front door of the Courthouse of this county as prescribed

by law

A copy—Teste:

Bullitt x Kelly,
John W. Chalkley,

p. q.

J. C. Ewing,
By M. Hawary, D.C.

Clerk.

S. Melvin Wampler, et al

vs. }

ORDER OF
PUBLICATION

G. T. Riddle, et al

Virginia, Lee County, to wit:

D. H. Ewing, County
Clerk, do certify that I
posted a true copy of the
within order of publication
at the front door of the
Court-house of this County
on this day.

Given under my hand
this the 29th day of August,
1907.

J. C. Ewing,
Clerk.

Order of Publication.

VIRGINIA: In the Clerk's Office of the Circuit Court of Lee county on the 2nd day of July, 1908.

S. MELVINA WAMPLER, Florence Coomer and T. D. Coomer, her husband, Margaret Cox and W. S. Cox, her husband, J. F. Slemple, Eurie L. Brummitt and John W. Brummitt, her husband, Martha Barker and J. G. Barker, her husband, L. J. Slemple, R. E. L. Slemple; and Rebecca N. Reese, Alpha N. Reese, Lou M. Reese and Alice Reese Hall, by S. M. Wampler, their next friend, Complainants.

Vs.

F. T. RIDDLE, Jane C. Riddle, J. W. B. Riddle, J. B. F. Riddle, Malissa Howard, Alfred Slemple, T. H. Slemple, John Slemple, David Slemple, Cora Patterson, Flora C. Courn, John J. Reese, Ate Reese, Arthur Reese, Susan Barker and John B. Barker, her husband, and Lafayette Slemple, Defendants.

The object of this suit is to try an issue devisavit vel non; to ascertain and try whether a certain paper writing dated November 21st, 1905, admitted to probate in Lee county, is or is not; the true and last will and testament of Sebastian S. Slemple, and to have the said paper writing declared and decreed not to be the last will and testament of the said Sebastian S. Slemple. And affidavit having been made and filed that the defendants, John J. Reese, Ate Reese, Arthur Reese, Cora Patterson and Flora C. Courn are non-residents of this commonwealth, it is ordered that they do appear here within fifteen days after due publication hereof and do what may be necessary to protect their interests in this suit; and it is ordered that a copy of this order be forthwith published once a week for four successive weeks in the Jonesville Star, a weekly newspaper, of general circulation, published in the town of Jonesville, Lee county, and that a copy be posted at the front door of the Courthouse of this county as the law directs.

A copy—Teste:

H C T EWING, Clerk

BULLITT & KELLY, JOHN W CHALKLEY, p q

S. Melvina Wampler et al

VS

In Chy.
J. J. Riddle et al



I, *J. C. Boatright*, editor

of The Jonesville Star, a weekly newspaper

published in the county of Lee, state of Virginia,

do hereby certify that the enclosed notice was

published in said paper once a week for ~~four~~ ^{one} ~~successive~~ ^{9th} weeks, commencing on the

day of *July* 190*8*

and publication discontinued by order of Plffs' attorneys

J. C. Boatright, Editor.

FEE \$ *2.00*

Order of Publication.

Virginia: In the Clerk's Office of the Circuit Court of Lee county on the 2nd day of July, 1908.

S. M. WAMPLER, Florence Coomer and T. D. Coomer, her husband, Margaret Cox and W. S. Cox, her husband, J. F. Slemph, Eurie L. Brummitt and John W. Brummitt, her husband, Martha Barker and J. G. Barker, her husband, L. J. Slemph, R. E. L. Slemph, and Rebecca N. Reese, Alpha N. Reese, Lou M. Reese and Alice Reese Hall, by S. M. Wampler, their next friend. Complainants.

vs.

ALFRED SLEMP, T. H. Slemph, David Slemph, John Slemph, Susan Barker and John B. Barker, her husband, Cora Patterson, Flora C. Courn, John J. Reese, Ate Reese, Arthur Reese, Lafayette Slemph, F. T. Riddle, Jane C. Riddle, J. W. B. Riddle, J. B. F. Riddle, and Melissa Howard, Defendants.

The object of this suit is to set aside cancel and annul a certain deed from S. S. Slemph to Velerie Slemph, John Slemph and David Slemph, dated November 21st, 1905, recorded, in Lee county, in deed book 45, page 89, conveying a tract of land containing one hundred and seventeen (117) acres, known as the Sebastian S. Slemph home tract, and to partition the said tract of land among the heirs at law of the said S. S. Slemph, or if the same cannot be divided without impairing the value thereof, to sell the same, and divide the proceeds derived therefrom among the said heirs according to their respective interests. And affidavit having been made and filed that the defendants, John J. Reese, Ate Reese, Arthur Reese, Cora Patterson and Flora C. Courn, are non-residents of this commonwealth. it is ordered that they do appear here within fifteen days after due publication hereof and do what may be necessary to protect their interests in

S. M. Wampler et al

VS

In Chy.
Alfred Slemph et al



I, *J. C. Boatright*, editor
of The Jonesville Star, a weekly newspaper
published in the county of Lee, state of Virginia,
do hereby certify that the enclosed notice was
published in said paper once a week for ~~four~~ ^{one}
~~successive~~ weeks, commencing on the *9th*
day of *July* 190*8*
and published and discontinued by order of
Plffs. attorney
J. C. Boatright, Editor.

FEE \$ *3.00*

~~PRIVATE.~~

Lee County Circuit Court

D. Melvina Nampler, et al,

F. J. Riddle, et al.

BULLITT, KELLY & HULL, Attorneys.

~~PRIVATE.~~

Lee County Circuit Court

S. M. Wampler, et al.

vs.

Alfred Slomp, et al.

~~PRIVATE.~~

Lee County Circuit Court

Florence Coomer, et al.

T. N. S.

REVERSIBLE DOCUMENT ENVELOPE, No. 15,
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247 Walnut Street, Cincinnati, O.

Patented August 1, 1887.

7910